

Family Education Rights and Privacy Act Policy

Scope: Who is Covered by this Policy?

Undergraduate and Graduate Students

Policy

Introduction

FERPA

The Family Educational Rights and Privacy Act of 1974, as amended, commonly known as FERPA, provides students with a right of access to their education records, permits students to challenge the accuracy of the records and prohibits the non-consensual release of such information except in limited circumstances (see the sections of this policy titled “Directory Information” and “Disclosure of Information”). This policy applies to all students *in attendance* at Miami University. In accordance with the federal regulations implementing FERPA, Miami defines *in attendance* for first time students as having accepted the University’s offer of admission and made the required deposit. Thereafter, a student is deemed to be “in attendance” during all periods of enrollment, during breaks between terms, during University holidays and vacations, and during periods of suspension.

Directory Information

Definition

Federal law requires the following information be designated as Directory Information under FERPA (34.C.F.R. 99.1). FERPA permits the release of directory information without the student’s consent (34.C.F.R.99.31).

1. name, campus address, ~~telephone listing~~, and campus email address;
2. place and date of birth;
3. major field(s) of study, including the college, division, department or program in which the student is enrolled;
4. enrollment status (undergraduate or graduate, full-time or part-time);
5. dates of attendance;
6. degrees, scholarships, honors, and awards, including President's List, Dean's List, honorary organizations and grade point average of students selected;
7. most recent educational institution attended;
8. photographic, video, or electronic images taken and maintained by the University;
9. participation in officially recognized student organizations, activities, and sports;
10. weight and height of members of athletic teams.

A student has the right to refuse to permit the designation of any or all of the categories of directory information. Any student wishing to exercise this right must inform the Office of the University Registrar in writing on or before July 15 of the categories of personally identifiable information that are not to be designated as directory information with respect to that student.

Disclosure of Directory Information under FERPA is permissive, not mandatory. As a result, there is no entitlement to Directory Information under FERPA. The Ohio Public Records Act (the "Act") does not mandate that every record created by a state entity constitutes a public record subject to disclosure. In order for a record to be a public record subject to disclosure, the record must serve to document the organization, functions, policies, decisions, procedures, operations, or other activities of the office. Information designated as directory information does not meet the definition of a public record simply because it is designated as Directory Information.

Access to Student Records

Access to Student Records

A student who is currently attending or who has been enrolled as a student at Miami University may have access to his or her education records with certain exceptions that are listed below. An educational record is defined as material that is directly related to the student maintained by the institution. The material is covered by the policy as long

as the institution uses it for making decisions about the student or for transmitting information to others outside of the institution.

A request to review such education records shall be made in writing by the student to the office concerned. The institution or office concerned shall respond to the request within a reasonable period of time, but not to exceed 45 days after the day of the request. Upon written request, a student will be provided with a copy of the education record at a reasonable cost.

Records Not Subject to Inspection

The following records shall not be subject to inspection by students:

1. Private notes and materials such as grade books used by faculty and staff.
2. Financial records of the parents of the students or information from such records. Information from the Parents' Confidential Statement may be released to the student only on the condition that the proper authorization has been given by the parent(s).

Non-Admitted Students

This policy does not extend to rejected applicants for admission.

Waiver of Access

Students may waive in writing their right of access to confidential letters of recommendation respecting admission, employment, or the receipt of an honor. On request, students will be notified of the names of all persons making confidential recommendations; such recommendations must be used solely for the purpose for which they were intended.

Disclosure of Information

Conditions for Disclosure

Personally identifiable information will not be released from an education record without the prior written consent of the student, except under one or more of the conditions listed below.

1. The disclosure is to University officials with legitimate educational interests. A University official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. A University official is any of the following:

- a. A person employed by the University in an administrative, supervisory, academic, research or support staff position (including law enforcement personnel and health services staff).
 - b. A person or company with whom the University has contracted (such as an attorney or auditor or collection agent)
 - c. A person serving on the Board of Trustees.
 - d. A student serving on an official committee such as a disciplinary board or grievance committee or assisting another University official in performing his or her tasks.
2. The disclosure is to officials of another school where the student seeks or intends to enroll.
3. The disclosure is to the Comptroller General, The Secretary of Education, state educational authorities or authorized representatives of the Attorney General for law enforcement purposes.
4. The disclosure is in connection with financial aid for which the student has applied or which the student has received to determine eligibility for aid, the amount of aid, the conditions of aid or enforcement of the terms and conditions of aid.
5. The disclosure is to organizations conducting studies for or on behalf of educational agencies or institutions.
6. The disclosure is to accrediting organizations to carry out accrediting functions.
7. The disclosure is to parent(s) of a dependent student, as defined by Section 152 of the Internal Revenue Code.
8. The disclosure is to comply with a judicial order or a lawfully issued subpoena. The University will make a reasonable effort to notify the student of the order or subpoena in advance of compliance, unless the subpoena is a federal grand jury subpoena or other subpoena issued for law enforcement purposes and directs otherwise.
9. The disclosure is in connection with a health or safety emergency if necessary to protect the health or safety of the student or other individuals.
10. The disclosure is to a parent or legal guardian of a student under the age of 21 of information regarding any violation of any federal, state, or local law or of any rule or policy of the University governing the use or possession of alcohol or a controlled substance if the University has determined that the student has committed a disciplinary violation with respect to such use or possession.

11. The disclosure is of the final results of any disciplinary proceeding conducted by the University against a student who is an alleged perpetrator of any crime of violence (as that term is defined in section 16 of title 18, United States Code) or a non-forcible sex offense, if the University determines as a result of the disciplinary proceeding that the student committed a violation of the institution's rules or policies with respect to such crime or offense. The information shall include only the name of the student, the violation committed and any sanctions imposed by the University on the student. The University may include the name of any other student such as a victim or witness, only with the written consent of that other student. The University will notify victims of sexual assault of the outcome of any disciplinary proceeding against the alleged perpetrator.

Additional Rules of Disclosure

A record of any disclosures made will be maintained and the student is entitled to inspect and review that record. Confidential information will be transferred to a third party only on the condition that such party will not permit any other party to have access to such information without the written consent of the student. No person, agency, or organization other than those identified in this section ("Disclosure of Information") will have access to such records before indicating in writing the legitimate educational or other interest of the person, agency, or organization. Such record shall be kept with the student's file and shall be open to inspection only by the student, the responsible administrator and his or her staff, and persons specifically authorized by law. No notation is required for access by University employees in the normal course of their duties.

University Policy and Procedure on a Student's Right to Inspect and Review Personally Identifiable Records and the Right to Challenge the Content of Those Records

Inspection and Review of Records

Present and former students of Miami University have the right to inspect and review their education records. The University will respond to any reasonable request for explanation and interpretation of records. A student may request the opportunity to inspect and review his or her records. Such a request must be made in writing. The request should be made to the chief administrator or designee(s) (e.g., the University Registrar, Bursar, dean or chair of academic department) of the office in which the records are on file. A request must specify records to be inspected and reviewed, the purpose of the disclosure and to whom the records are to be released.

A request by a student to inspect and review his or her records will be granted within a reasonable period of time, but such time is not to exceed 45 days after the request has been received by the department. Records will be inspected and reviewed by the student in the presence of the chief administrator or designee(s). Contested records may not be changed or deleted during the process of inspection and review. The student shall be advised of the student's right to challenge the content of the records and be advised to review this policy. Upon written request the student shall be provided with a copy of that portion(s) of his or her education record at a reasonable cost to the student.

Challenging Contents of Records

Request to Amend

If the student believes the education records of the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, the student may ask the chief administrator of the office in which the records are maintained to amend the record. The chief administrator shall advise the student in writing within a reasonable time of the chief administrator's decision. If the chief administrator decides not to amend the record as requested, the chief administrator shall inform the student of the student's right to a hearing and give the student a copy of this policy.

Hearing

Request — The student may request in writing a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy or other rights of the student. The written request shall be delivered to the Office of the Secretary of the University.

Hearing — The hearing shall be held before the Secretary of the University or, at the Secretary's discretion, a committee appointed by the Secretary, within a reasonable time after receipt of the request. Notice of the time, date and place of the hearing shall be given in writing to the student at least three (3) working days in advance of the hearing. The student will be given a full opportunity to present evidence that the information contained in the education records is inaccurate, misleading or in violation of the privacy or other rights of the student. The student may, at the student's own expense, be represented by one or more individuals of his or her own choice including an attorney.

Decision

The Secretary of the University's (or committee's) decision will be made in writing within ten (10) business days after the hearing. The decision will be based solely on the

evidence presented at the hearing, and will include a summary of the evidence and the reasons for the decision. If the Secretary of the University (or committee) determines that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, the Secretary of the University shall inform the student of the student's right to place a statement in the education record commenting on the contested information or stating why he or she disagrees with the decision.

Related Form(s)

Not Applicable.

Additional Resources and Procedures

Not Applicable.

FAQ

Photos and Videos Under FERPA

~~When is a photo or video of a student an education record under FERPA?~~

~~As with any other "education record," a photo or video of a student is an education record, subject to specific exclusions, when the photo or video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution. (20 U.S.C. 1232g(a)(4)(A); 34 CFR § 99.3 "Education Record")^[1]~~

~~Directly Related to a Student:~~

~~FERPA regulations do not define what it means for a record to be “directly related” to a student. In the context of photos and videos, determining if a visual representation of a student is *directly* related to a student (rather than just incidentally related to him or her) is often context-specific, and educational agencies and institutions should examine certain types of photos and videos on a case-by-case basis to determine if they directly relate to any of the students depicted therein. Among the factors that may help determine if a photo or video should be considered “directly related” to a student are the following:~~

- ~~• The educational agency or institution uses the photo or video for disciplinary action (or other official purposes) involving the student (including the victim of any such disciplinary incident);~~
- ~~• The photo or video contains a depiction of an activity:
 - ~~○ that resulted in an educational agency or institution’s use of the photo or video for disciplinary action (or other official purposes) involving a student (or, if disciplinary action is pending or has not yet been taken, that would reasonably result in use of the photo or video for disciplinary action involving a student);~~
 - ~~○ that shows a student in violation of local, state, or federal law;~~
 - ~~○ that shows a student getting injured, attacked, victimized, ill, or having a health emergency;~~~~
- ~~• The person or entity taking the photo or video intends to make a specific student the focus of the photo or video (e.g., ID photos, or a recording of a student presentation); or~~
- ~~• The audio or visual content of the photo or video otherwise contains personally identifiable information contained in a student’s education record.~~

~~A photo or video should not be considered directly related to a student in the absence of these factors and if the student’s image is incidental or captured only as part of the background, or if a student is shown participating in school activities that are open to the public and without a specific focus on any individual.~~

~~Examples of situations that may cause a video to be an education record:~~

- ~~A school surveillance video showing two students fighting in a hallway, used as part of a disciplinary action, is directly related to the students fighting.~~
- ~~A classroom video that shows a student having a seizure is directly related to that student because the depicted health emergency becomes the focus of the video.~~
- ~~If a school maintains a close-up photo of two or three students playing basketball with a general view of student spectators in the background, the photo is directly related to the basketball players because they are the focus of the photo, but it is not directly related to the students pictured in the background. Schools often designate photos or videos of students participating in public events (e.g., sporting events, concerts, theater performances, etc.) as directory information and/or obtain consent from the parents or eligible students to publicly disclose photos or videos from these events.~~
- ~~A video recording of a faculty meeting during which a specific student's grades are being discussed is directly related to that student because the discussion contains PII from the student's education record.~~

Maintained by an educational agency or institution:

~~To be considered an education record under FERPA, an educational agency or institution, or a party acting for the agency or institution, also must maintain the record. Thus, a photo taken by a parent at a school football game would not be considered an education record, even if it is directly related to a particular student, because it is not being maintained by the school or on the school's behalf. If, however, the parent's photo shows two students fighting at the game, and the parent provides a copy of the photo to the school, which then maintains the photo in the students' disciplinary records, then the copy of the photo being maintained by the school is an education record.~~

Exclusion for Law Enforcement Unit Records

~~The FERPA statute and regulations (20 U.S.C. 1232g(a)(4)(B)(ii) and 34 CFR §§ 99.3 and 99.8) exclude from the definition of education records those records created and maintained by a law enforcement unit of an educational agency or institution for a law enforcement purpose. Thus, if a law enforcement unit of an educational agency or institution creates and maintains the school's surveillance videos for a law enforcement purpose, then any such videos would not be considered to be education records. If the law enforcement unit provides a copy of the video to another component within the educational agency or institution (for example, to maintain the record in connection with~~

a disciplinary action), then the copy of the video may become an education record of the student(s) involved if the video is not subject to any other exclusion from the definition of "education records" and the video is: (1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution.

Can the same recorded image be the education record of more than one student under FERPA?

Yes. For example, a surveillance video that shows two students fighting on a school bus that the school uses and maintains to discipline the two students, would be "directly related to" and, therefore, the education record of both students.

If a video is an education record for multiple students, can a parent of one of the students or the eligible student view the video?

When a video is an education record of multiple students, in general, FERPA requires the educational agency or institution to allow, upon request, an individual parent of a student (or the student if the student is an eligible student) to whom the video directly relates to inspect and review, or "be informed of" the content of the video, consistent with the FERPA statutory provisions in 20 U.S.C. § 1232g(a)(1)(A) and regulatory provisions at 34 CFR § 99.12(a). FERPA generally does not require the educational agency or institution to release copies of the video to the parent or eligible student.

In providing access to the video, the educational agency or institution must provide the parent of the student (or the student if the student is an eligible student) with the opportunity to inspect and review or "be informed of" the content of the video. If the educational agency or institution can reasonably redact or segregate out the portions of the video directly related to other students, without destroying the meaning of the record, then the educational agency or institution would be required to do so prior to providing the parent or eligible student with access. On the other hand, if redaction or segregation of the video cannot reasonably be accomplished, or if doing so would destroy the meaning of the record, then the parents of each student to whom the video directly relates (or the students themselves if they are eligible students) would have a right under FERPA to inspect and review or "be informed of" the entire record even though it also directly relates to other students.

For a fuller legal analysis and explanation of this issue, please see the [2017 Letter to Wachter](#).

~~If a video is an education record for multiple students, can the parent of one of the students (or the eligible student) receive a copy of the video?~~

~~While we do not advise on an educational agency's or institution's obligations under any state open records laws that may apply, we note that FERPA does not generally require an educational agency or institution to provide copies of education records to parents and eligible students^[2]. That said, it would not violate FERPA for an educational agency or institution to non-consensually disclose to an eligible student or to his or her parents copies of education records that the eligible student or his or her parents otherwise would have the right to inspect and review under FERPA.~~

For a fuller legal analysis and explanation of this issue, please see the [2017 Letter to Wachter](#).

~~If redaction or segregation of an education record of multiple students can be reasonably accomplished without destroying the meaning of the education record, can educational agencies and institutions charge parents or eligible students for the costs of the redaction or segregation?~~

~~No. FERPA provides parents and eligible students with the right to inspect and review the student's education records, and nothing in the FERPA statute or regulations permits educational agencies and institutions to charge parents or eligible students for fees or costs associated with exercising that right.~~

~~If a school elects to provide a parent or eligible student with a copy of the education records, then the FERPA regulations (34 CFR § 99.11(a)) generally permit (with the exception noted below) the school to charge for the costs required to make the copy. FERPA regulations (34 CFR § 99.11(b)) also provide that the school may not charge a~~

~~parent or eligible student for the costs to search for or retrieve the education records. We view the costs, if any, to the school of redacting, or segregating, education records of multiple students as being like the costs of search and retrieval that may not be charged to parents or eligible students, rather than like the costs for copies that generally may be charged to parents and eligible students. As noted above, if an educational agency or institution can reasonably redact or segregate out portions of an education record that is directly related to other students, without destroying the meaning of the record, then the educational agency or institution must do so and therefore cannot charge parents or eligible students for the costs associated with exercising their right to inspect and review such education records.~~

~~In contrast, parents and eligible students generally may be charged for the costs of making copies of education records precisely because FERPA generally does not require the school to provide them with such copies. Thus, where the redaction or segregation of education records of multiple students can be reasonably accomplished without destroying the meaning of the education records, nothing in FERPA permits educational agencies or institutions to charge parents or eligible students for the costs of making the required redactions or segregation. Please note that the FERPA regulations (34 CFR § 99.11(a)) similarly provide that if a fee for copies effectively prevents a parent or an eligible student from exercising the right to inspect and review his or her education records, an educational agency or institution would be required to provide copies without payment. Such cases would be limited to a parent or an eligible student providing evidence of the inability to pay for the copies due to financial hardship.~~

~~Does FERPA permit legal representatives of parents or eligible students to inspect and review videos with the parent or eligible student?~~

~~Yes. FERPA permits legal representatives of a parent or an eligible student to inspect and review videos with the parent or eligible student. While FERPA does not require educational agencies and institutions to allow parents or eligible students to bring their attorney or other legal representative with them when they exercise their right to inspect and review the student's education records, nothing in FERPA prevents educational agencies and institutions from allowing parents or eligible students to bring their attorney or other legal representative with them when they exercise their right to inspect and review the student's education records under FERPA.~~

~~Does FERPA permit educational agencies and institutions turn over videos to the police upon request or following an incident that may warrant police involvement?~~

~~If the law enforcement unit of an educational agency or institution creates and maintains videos for a law enforcement purpose, then the videos would not be education records and FERPA would not prohibit the law enforcement unit of an educational agency or institution from disclosing the videos to the police. If the videos are education records, however, educational agencies and institutions may not turn over videos to the police upon request without having first either obtained the written consent of the parent or eligible student or determined that the conditions of an exception to the general requirement of consent have been met, such as if the disclosure is made in connection with a health or safety emergency (20 U.S.C. 1232g(b)(1)(I) and 34 CFR §§ 99.31(a)(10) and 99.36) or the law enforcement officer has presented the educational agency or institution with a judicial order or a lawfully issued subpoena (20 U.S.C. 1232g(b)(1)(J) and (b)(2) and 34 CFR § 99.31(a)(9)).~~

~~[1] The Individuals with Disabilities Education Act (IDEA) also contains privacy protections that apply to children with disabilities. 20 U.S.C. 1417(c) and 34 CFR §§ 300.610-300.626 and 34 CFR §§ 303.401-303.416. Under the IDEA, participating agencies must protect the personally identifiable information (PII), data, or records that are collected, maintained, or used by the participating agency. While the definition of “education record” under Part B of the IDEA cross-references the FERPA definition in 34 CFR § 99.3, the application of IDEA requirements may raise different questions.~~

~~[2] If circumstances effectively prevent the parent or eligible student from otherwise exercising their right to inspect and review the student’s education records (e.g., if the parent lives outside of commuting distance to the school), then the educational agency or institution would be required to either provide a copy of the records or to make other arrangements for the parent or eligible student to inspect and review the records. 34 CFR § 99.10(d)~~

Policy Administration

Next Review Date

7/1/2023

Responsible Officer

- Senior Associate Registrar
- General Counsel

Legal Authority

- The Family Educational Rights and Privacy Act of 1974
- The Ohio Public Records Act

Compliance Policy

Yes

Revision History

[Amended July 2021](#)

Reference ID

Student Handbook 1.12

Reviewing Bodies

Administrative