UNIVERSITY of DENVER
OFFICE OF THE REGISTRAR

Privacy of Student Information
Family Educational Rights & Privacy Act
A Guide for DU Employees

What is FERPA?

The Family Educational Rights and Privacy Act of 1974 protects the privacy of student education records. The Act provides for the right to inspect and review education records, the right to seek to amend those records, and the right to limit disclosure of information from the records. The intent of the legislation is to protect the rights of students and to ensure the privacy and accuracy of education records. The Act applies to all institutions that are recipients of federal aid administered by the Secretary of Education.

As a DU employee, may I access students' education records?

University faculty and staff may access students' education records for the sole and explicit purpose of allowing them to carry out their official University functions. Any other use is prohibited. It is the responsibility of each school official to understand his or her legal responsibilities under FERPA and other privacy regulations at the University of Denver. Failure to adhere to privacy regulations can result in disciplinary action up to and including termination.

School officials with legitimate educational interest may access student information. 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. The University of Denver defines school officials as follows:

> *University officials with legitimate educational interests include a person employed by the University in an administrative, supervisory, academic, research, or staff position (including law enforcement unit personnel and health staff); a person serving on the board of trustees; or a student, volunteer or employee of a partner organization serving on an official committee, such as an admission, disciplinary or grievance committee, or assisting another University official in performing his or her tasks. A University official also may include contractor outside of the University who performs an institutional service or function for which the University would otherwise use its own employees and who is under the direct control of the University with respect to the use and maintenance of education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another University official in performing his or her tasks. A University official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her institutional duties.*

What rights does FERPA afford students with respect to their education records?

- The right to inspect and review their education records within 45 days of the day DU receives a request for access. Students should submit to the Office of the Registrar written requests that identify the records they wish to inspect. The Office of the Registrar will arrange access (coordinating with appropriate offices) and notify the student of how records may be inspected.
- The right to request an amendment to the student's education records that the student believes are inaccurate or misleading.

  Students may ask to amend a record that they believe is inaccurate or misleading. They should write the Office of the Registrar, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

  If DU decides not to amend the record as requested by the student, we 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 will be provided to the student when notified of a hearing.
- The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent (such as to school officials).
- The right to file a complaint with the U.S. Department of Education concerning alleged failures of DU to comply with the requirements of FERPA. For additional information on filing a complaint visit https://studentprivacy.ed.gov/file-a-complaint.

Who is protected under FERPA?

Students who are currently or formerly enrolled, regardless of their age or status in regard to parental dependency are protected under FERPA. Students who have applied to but have not attended DU do not come under FERPA guidelines for DU, but records (e.g., transcripts) from previously attended schools are protected by FERPA. FERPA rights terminate at death.

What are education records?

"Education records" are records from which a student can be personally identified and that are maintained by DU. These records include but are not limited to grades, transcripts, class lists, student course schedules, student financial information, photos, videos, and student discipline records. The information may be recorded in any way, including, but not limited to, handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and e-mail.

What is not included in an education record?

- Sole possession records or private notes held by school officials that are not accessible or released to other personnel;
- law enforcement or campus security records that are solely for law enforcement purposes and maintained solely by the law enforcement unit;
- records relating to individuals who are employed by the institution (unless contingent upon attendance);
- records relating to treatment provided by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional and disclosed only to individuals providing treatment; and
- records that contain information about an individual obtained only after that person is no longer a student, i.e., alumni records.

What is directory information?

Institutions may disclose information on a student without violating FERPA if it has designated that information as "directory information." DU designates the following as directory information: the student's name, addresses, telephone numbers, electronic mail and webpage addresses, employer, job title, photographic images, date and place of birth, field of study, full-time or part-time status, class (e.g., graduate, sophomore, junior), participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, anticipated date of graduation, degree(s), degrees or awards received, including selection to a dean's list or honorary organization, thesis and dissertation titles, the most recent previous educational agency or institution attended by the student.

DU designates directory information solely to perform specific institutional functions. DU does not release any directory information (such as addresses and telephone numbers) to third parties except to conduct these functions. Contact the Office of the Registrar for additional information.

May a student request that directory information not be released?

A student who wishes that directory information not be released may submit a "Request to Withhold Information" form to the Office of the Registrar. Requests last one year and must be submitted each fall.

How do I know if a student has requested that directory information not be released? What do I do?

When using the Banner information system, a pop-up window will appear when accessing information for students who have requested that directory information be suppressed. The pop-up window states: Warning: Information about this person is confidential. An indication that the student information is confidential will appear on Banner and other online screens and on many Banner reports.

If a student has requested that directory information not be released, no information about that student should be shared with any third party (i.e., the student or anyone who is not a University Official). If any third party should request any information about the student, the University employee should state "there is no information available for that individual." Direct inquiries to the Office of the Registrar.

Who may have access to student information?

- The student and any outside party who has the student's written authorization.
- School officials (defined above) who have "legitimate educational interests."
- A Teaching Assistant (TA) or a Graduate Assistant (GA) may be granted access to educational records for courses they are assigned to, or for courses which they are assisting with instruction.
- Parents of a dependent student as defined by the Internal Revenue Code may have access to the student's education records. The parent must attest to dependency status and file a form annually with the Office of the Registrar. Students may revoke parents' access to their educational records, thus it is important to determine if a release is in effect (see below).
- A person in response to a lawfully issued subpoena or court order, as long as DU first makes a reasonable attempt to notify the student. All subpoenas and court orders for student information should be referred to the Office of the Registrar. Law enforcement officials seeking student information should be referred immediately to the Registrar (303-871-4095), University Counsel (303-871-4646) or Campus Safety (303-871-2139).
- The University may notify the parents or legal guardians of any student under the age of 21 whose current enrollment ends due to suspension or dismissal. The University also reserves the right to notify the parents or legal guardians of any dependent student under the age of 21 who has been found responsible for violating any drug or alcohol policies.

How do I know if a student has released educational records to a third party such as a parent?

Students' information releases are recorded in the Banner system by the Office of the Registrar. Banner users may view releases on the *DU FERPA Information Release Form* (SZAFRPA) form. Students, faculty and advisers may see if a release is in place by accessing Advising Tools and Resources at MyDU: https://my.du.edu/pages/advising-tools-and-resources. The form shows the valid period for the release; the specific information (e.g., grades) that may be released, and the party to whom the information may be released.

Educational records should never be shared with any third party (including parents) if a release is not in place.

There are two 'blanket' releases that are not recorded on SZAFRPA. Varsity athletes sign a standard release provided by the NCAA that authorizes release of information to the NCAA and other parties for athletes. International students on certain visas (e.g., F or J) sign a release to U.S. Immigration and Customs Enforcement (ICE) as part of their I-20 form. Inquiries from any law enforcement agency including ICE should be referred to Campus Safety or University Counsel.

What can I include in a letter of recommendation for a student?

Faculty and staff are often asked to write letters of recommendation for students. While personal observations do not require a written release, disclosure of any educational record (such as GPA or classroom performance) requires a written release. A customized release form for letters of recommendation is available on the Registrar's website. Alternatively, DU faculty and staff may ask a student to submit the standard release online, which specifies information which may be released in the letter of recommendation.

When is the student's consent not required to disclose information?

When the disclosure is:

- to school officials (defined above) who have a legitimate educational interest;
- to federal, state, and local authorities involving an audit or evaluation of compliance with educational programs;
- in connection with financial aid (this includes veterans' benefits);
- to accrediting organizations;
- to parents who have filed a Request for Disclosure of Educational Records for a dependent student;
- to comply with a judicial order or subpoena;

- in a health or safety emergency;
- releasing directory information;
- releasing the results of a disciplinary hearing to an alleged victim of a crime of violence.

Other than sharing information with individuals to whom the student has signed a release, these needs should be coordinated through the Office of the Registrar.

Disclosure to Parents

When a student turns 18 years old or enters a postsecondary institution at any age, all rights afforded to parents under FERPA transfer to the student. In nearly every case, university employees should only disclose information to parents when a release is in place (see page 2). However, FERPA permits some circumstances in which schools may share information with parents without the student's consent. For example:

- Schools may disclose education records to parents if a health or safety emergency involves their son or daughter.
- Schools may inform parents if the student who is under age 21 has violated any law or its policy concerning the use or possession of alcohol or a controlled substance.
- A school official may generally share with a parent information that is based on that official's personal knowledge or observation of the student.

Disclosure to Law Enforcement Agencies

Generally, all DU employees should refer inquiries (in person, telephone or in writing) from law enforcement agencies (including ICE) about DU students to the Office of the Registrar, the Office of Campus Safety or the Office of General Counsel. The only offices authorized to accept subpoenas or other legal documents on behalf of the University are General Counsel or Vice Chancellor for Financial Affairs (or the Office of the Registrar for requests for student information). DU faculty and staff should not respond or share any information about a DU student or employee to law enforcement agents or representatives, and should not confirm whether an individual is a DU student or employee.

Disclosure to Contractors and Agents

The University may engage contractors or agents to perform work on its behalf. If performing such work includes access to education records, the contractor is designated as a "school official" as defined above. Under FERPA, terms must be included in the contract specifying that the agent is required to use the student data only for the purposes intended, destroys or returns the information when the work is concluded, and does not provide access to the data by any other third party unless otherwise legally able to do so.

Contracts will be reviewed for necessary terms in the context of contract review. For information on contract review, see: https://www.du.edu/sharedservices/procurement/.

Health or Safety Emergency

In an emergency, FERPA permits school officials to disclose without student consent education records, including personally identifiable information from those records, to protect the health or safety of students or other individuals. At such times, records and information may be released to appropriate parties such as law enforcement officials, public health officials, and trained medical personnel. [34 CFR § 99.31(a)(10) and § 99.36]. This exception to FERPA's general consent rule is limited to the period of the emergency and generally does not allow for a blanket release of personally identifiable information from a student's education records. DU officials may disclose information from education records to parents if a health or safety emergency involves their son or daughter.

FERPA, HIPAA and Student Health Information

The Health Insurance Portability and Accountability Act (HIPAA) establishes a national standard for the protection of personally identifiable information relating to health care. The HIPAA privacy rule establishes standards and imposes requirements to protect the privacy of individually identifiable health information. However, records that are subject to FERPA are *not* subject to the HIPAA privacy rules. Only records held by *designated* treatment facilities at DU are covered by HIPAA.

Medical or treatment records at DU are exempt from the definition of education records under FERPA so long as they are:

- Made and maintained by a medical professional;
- Used only in connection with treatment of the student; and
- Disclosed only to individual providing treatment.

Contact the Office of the Registrar or Health and Counseling for additional information.

European Privacy Regulations

The European Union General Data Protection Regulation (GDPR) is a comprehensive data privacy law that applies whenever DU processes personal data of people who are in the European Economic Area (EEA). Under the GDPR, "personal data" is any information that can be associated with an identifiable person, including publicly available information. "Processing" includes any action performed upon personal data, such as collection, storage, analysis, and deletion. While persons are in the EEA, they may exercise certain rights under the GDPR. Some of these rights are similar to FERPA rights, such as the right to access personal data, and the right to amend personal data that are inaccurate. Additionally, persons in the EEA have the right to object to any way in which their personal data are being processed, and DU must cease any processing that is subject to an objection whenever DU's reasons for conducting the processing are not compelling enough to override the interests, rights, and freedoms of the person who is objecting. Furthermore, in the event that a person in the EEA objects to receiving direct marketing communications, DU must always cease the transmission of direct marketing communications to that person. DU must respond to all GDPR objections and other requests without undue delay and, at the latest, within one month of receiving the objection or request. Therefore, if you receive a GDPR objection or request, it is critical that you first immediately report it by emailing EEA.GDPR@du.edu. Then, if necessary, you will be provided with additional instructions regarding any further actions you must take.

Disciplinary Records

While student disciplinary records are protected as education records under FERPA, there are certain circumstances in which disciplinary records may be disclosed without the student's consent. DU Community Standards officials may disclose to an alleged victim of any crime of violence or non-forcible sex offense the final results of a disciplinary proceeding conducted by the institution against the alleged perpetrator of that crime, regardless of whether the institution concluded a violation was committed. An institution may disclose to anyone – not just the victim – the final results of a disciplinary proceeding, if it determines that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense, and with respect to the allegation made against him or her, the student has committed a violation of the institution's rules or policies [34 CFR §§ 99.31(a)(13) and (14)].

Electronic Information Resources

DU employs a number of electronic information systems which contain confidential student information. The same principles of confidentiality that apply to paper records also apply to electronic data. Any new software, local or hosted must be approved through the Technology Review process.

May I use social media such as Facebook or blogs in my classroom?

FERPA does not prevent instructors from assigning students to create public content as part of their course requirements, but common sense guidelines should be used to ensure the protection of students. The course syllabus should identify when students are assigned to post information to public social media platforms, students should also be informed that their material may be viewed by others. Students should not be required to release any personal information on a public site. Instructor comments or grades on student material should never be made public.

How may I use student information from reports?

Institutional reporting tools provide access to confidential student information. This access is provided solely for the purposes of supporting instruction, DU program administration and evaluation. Such data may not be used for research or external reporting without approval from the Office of Institutional Research. Information collected from students is made available to University employees for the sole and explicit purpose of allowing them to carry out their official University functions. Any other use is prohibited. Any violation of University policy on access to student records may result in loss of security access to such records and subject the offender to appropriate disciplinary action.

Requirements for Electronic Data Protection

- DU's Requirements for Secure Computing Policy can be found here: https://www.du.edu/it/about/it-policies/secure-computing.
- Before computers and rewritable storage media (e.g., hard disks, other magnetic media, and flash memory devices such as key chain storage devices) are transferred between University departments or to different employees within a University department, all files that the recipients are not explicitly authorized to access must be deleted and free space must be erased.
- All University media and equipment which contain any student data must follow DU IT policy for proper disposal.

Questions can be directed to University Technology Services at 303.871.2100.

How do I get additional information about FERPA?

The Office of the Registrar administers FERPA for the University of Denver. All inquiries regarding FERPA should be referred to:

The Office of the Registrar
University of Denver
2197 S. University Blvd., Room G45
Denver, CO 80208
303.871.3897
www.du.edu/registrar

Additional FERPA resources for DU employees can be found on at https://www.du.edu/registrar/other-student-services/privacy-ferpa. The University of Denver Privacy Policy may be seen at: https://www.du.edu/site-utilities/privacy-policy.

DU employees who access education records must complete FERPA training annually. An online FERPA course is available in Canvas or Pioneer@Work in DU's Portal MyDU: https://my.du.edu/.

DU employees must also agree to DU's Confidentiality Obligations which may be reviewed on the MyDU portal.

Academic Departments Document Retention

Advising Plans	Notes from faculty after advisement sessions with students	5 years
Change of Grade Records	Student requested through their department a review and consideration of a different final grade	5 years
Applications for Admission	Applicants who do not enroll, whether they are accepted or rejected	2 years
	Applicants who enroll	5 years
Learning Management System (Canvas) Content	Course content for specific course offerings	2 years
Correspondence	To and from faculty member regarding student issues	5 years
Course Syllabi	Instructor outline of the course requirements. May include information about tests, projects, reading assignments, as well as required textbooks	1 year or until no longer required
Student Assessment Records	Exams, Quizzes, Essays, Projects (includes paper copies, electronic copies, and items stored on LMS systems)	1 year after course completion

For additional information on records retention, contact the Office of Enterprise Risk Management.

This brochure was adapted from material in the *AACRAO 2012 FERPA Guide.* American Association of Collegiate Registrars and Admissions Officers. 2012

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