FERPA
FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

What you need to know

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What is it?

♦ FERPA is a federal law designed to:
  – Protect the privacy of educational records
  – Establish the right of students to inspect & review their educational records
  – Provide guidelines for the correction of inaccurate and misleading data through informal and formal hearings.

♦ Also know as the Privacy Act or the Buckley Amendment.
Educational Records

♦ Contain information directly related to a student.
♦ Maintained by an educational agency or institution or by a person acting on its behalf.
Educational Records....

♦ May include:
  - Handwritten data
  - Printed data
  - Maintained in a computer and displayed on a computer**
  - Videotape
  - Audiotape
  - Film
  - Microfilm
  - Microfiche
  - Email
  - Registration forms
  - Transcripts
  - Grade reports
  - Class schedules
  - Class rosters
  - And any document that includes personally identifiable information related to individual students

♦ Does NOT include:
  - Records in sole possession of author
  - Medical records
  - Employment records (when employment is not contingent on being a student)
  - Records created and maintained by a law enforcement agency & used and seen only by such
  - Information obtained after the person was a student.
Determining an Educational Record

- Questions to ask yourself:
  1. Is it personally identifiable to a student?
  2. Is it maintained by the institution?
  3. Can it be excluded from all of the categories of records that are not educational records (law enforcement unit records, employment records, sole possession notes, doctor patient privilege records, Alumni records)

- A non-educational record becomes an educational record once it is shared w/ another school official.
Student Employment

♦ If a student is employed at the institution they attend school, employment records are not an education record, unless those records were created for an employment purpose by the fact that the person is a student (2001 FERPA Guide).

• Workstudy
• Graduate Assistants
• Resident Directors and Advisors
Sole Possession Notes

- Records made & kept in sole possession of the maker as a personal aide & without the involvement or assistance of any other individuals...are not educational records.

  - May be revealed to a temporary substitute for the maker of the record.
    - Ex: A personal observation of a student’s behavior that a substitute teacher may need to be aware of.
    - Ex: Notes taken in an interview (NOT sole possession notes)
Directory (Public) Information

♦ “…information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.” (1988 Final Regulations)
Directory Information…

♦ May NEVER include:
  – Social Security #
  – Student ID #
  – Race
  – Ethnicity
  – Nationality
  – Gender
  – Citizenship
  – Religion/Religious Preference
  – Grades
  – GPA
  – Class Schedule
  – # of Credit Hours
Directory Information at ASC

♦ Name
♦ Email Address
♦ Phone number(s)
♦ Address (It is recommended that parent addresses not be released without written consent of the student)
♦ Classification (i.e., freshman, junior…)
♦ Major field of study
♦ Dates of attendance
♦ Degrees pursued
♦ Enrollment status (full-time, half-time, etc.)

*Actual number of credit hours is NOT Directory Information
Continued…….

- Degrees received
- Weight and height of members of athletic teams
- Honors and awards received
- Date of birth
- Last school attended
- Past and present participation in officially recognized sports
- Academic standing (eligible to register)
- Major
A Student’s Right to Withhold Directory Information

♦ Student may place a hold on any or all of this information.

♦ Must complete and submit a **Restriction of Release of Information** form to the Records Office or the One Stop Student Services Center.

♦ A “Confidential” flag will be added to the students record which will appear as follows in BANNER: (if you see this, please respond to the requestor, “I’m sorry, I am unable to provide you with any information.”)
Restriction to Release stays in effect until we receive a counter request.
Warning: Information about this person is confidential.
Current Identification number; overtype to change; DUP REC for Source Info.
Record: 1/1
Via Faculty Web, the message appears as follows:

“⚠️ Confidential Information for Student Name”.

If either of the messages appear, please do not release ANY information about this student. This includes, but is not limited to whether or not the student is or has attended ASC.

ASC is not responsible for any information released before receipt of the confidentiality form in the Records Office.

The confidentiality flag will remain in effect until the student requests in writing that it be removed.
Written Consent

♦ May be received and accepted by the institution via facsimile transmittal.
Parental Rights Under FERPA

- Parents are given certain rights under FERPA
  - If a student is taking classes at both the high school and college level, the two institutions may share information on the student. If the student is under the age of 18, parents still retain the rights under FERPA at the high school and may inspect and review any records sent by the postsecondary institution to the high school.

- However, all rights transfer to the student:
  - Once the student reaches age 18 or
  - They attend any school beyond the secondary level
    - A student “owns” their educational record from the first day of enrollment, regardless of age.
When May a Parent Access a Student’s Educational Record?

♦ By Law: Institutions MAY release non-directory information to parents or court-appointed guardians if the student is claimed as a dependent on the parent/guardian’s Federal Income Tax return.

- Both the parent who claims the student, as well as the parent who is not claiming the student, are granted access.

*It is ASC’s policy to obtain written authorization from the student*

♦ A Written Release form signed by the student must be on file with the Office of the Registrar before any non-directory information may be released to the parent or court-appointed guardian.
“Musts” and “Mays”

♦ “Mays” – May release non-directory information in certain circumstances; however you are not required to do so.
Forward any requests for release of educational records to the Registrar.

587-7321
Legitimate Educational Interest

♦ “The demonstrated ‘need to know’ by those officials of an institution who act in the student’s educational interest, including faculty, administration, clerical and professional employees, and other persons, including student employees or agents, who manage student record information” (2001 FERPA Guide).—Any authorized interest or activity undertaken in the name of the College for which access to an educational record is necessary or appropriate to the proper performance of the undertaking.
  – Example: Student Advisor

♦ Determines whether or not a faculty or staff member is violating FERPA when he/she accesses a student’s record

♦ “Need to know” is not being in the position of having a legitimate educational interest and using your access for personal reasons.
Examples

♦ Curiosity and doing a favor for a friend whose son or daughter is enrolled as a student *are not* legitimate educational interests.

♦ A man worked at an institution, and was in the position of having a legitimate educational interest, but he wrongly used his access by taking his ex-wife’s educational records to court to use against her.
Transcripts

- Students are able to access transcripts via the web (unofficial only) or from the One Stop Shop (unofficial & official)

***Under no circumstances are faculty or staff allowed to print transcripts for students.

- Certain faculty are allowed access to view transcripts, if they have a legitimate educational interest (i.e. advising), but are not permitted to print them for students
- Only offices designated by the Registrar may actually print transcripts for students.
Letters of Recommendation

- Statements made about a student based on the recommender’s personal observation do not require written release from the student.
- If the recommendation includes personally identifiable information (grades, GPA, etc.), the writer must obtain a signed written release from the student.
  - The letter of recommendation would be considered part of the student’s educational record, and may be viewed by the student (unless they have waived their right to view such letter)
Permission Letter to Write a Letter of Recommendation

I _______________ give permission for _______________ to write a letter of recommendation to:

________________________________________
Name

________________________________________
Address

________________________________________
City          State            Zip

________________________________________

has my permission to include the following information in the letter of recommendation:

(List personally identifiable information to be included in the letter of recommendation here)

I __ Waive or ___Do NOT waive my right to review a copy of this letter at any time in the future.

________________________________________
Signature

________________________________________
Date
Posting of Grades

♦ Can NOT post grades by:
  – Student name
  – Social Security or Institutional ID #, or any part of it
    (Unless you have the student’s written permission)
    - Suggestion: establish an ID code only known to the professor
      and the student

♦ Can NOT send grades via a postcard

♦ Only use secure web sites approved by FERPA
  – The institution would be held liable if a 3rd party gained
    access to a student’s educational record via electronic
    transmission.
Two Basic Rules to Comply with FERPA

1. Notify current students annually in writing of their rights under FERPA
   - Right to seek amendment or correction of educational records
   - Right to have some control over the disclosure of information from educational records when release is permitted by law
   - Right to file complaints with the Family Policy Compliance Office, United States Department of Education, within 180 days of alleged violation
   - Since ASC has a policy of disclosing personally identifiable information to school officials:
     - The criteria for determining school officials
     - A description of what constitutes legitimate educational interest.
2. Grant access by students or parents, if applicable, to education records.
   - Students and former students have the right to inspect and review their education records through established procedures.
     - Within a max of 45 days after written request is received.
   - Institution or agency is not required to provide a copy of the education record unless failure to do so would deny access.
     - Records cannot be destroyed if request is pending.
     - Fee can be charged unless cost prohibits access.
   - Students and former students have the right to review records of requests for disclosure of their personally identifiable information.
     - Institution needs to maintain records of requests and make them available to students.
Students Do NOT Have the Right to…

♦ View financial information submitted by parents
♦ Confidential letters and recommendations placed in student’s file before 1/1/75
♦ Confidential letters, etc., associated with admissions, employment, job placement or honors to which a student has waived rights of inspection and review.
♦ Educational records containing information about other students (grades, test scores, etc.)
  – With the exception of workstudies/student employees
What Happens If We Don’t Follow the Law???

- Lawsuit
- Loss of Federal Funding
Additional Suggestions to Avoid Violation

DO NOT:

♦ leave graded tests in a stack for students to pick up by sorting through the papers of all students.

♦ ever link the name of a student with that student's social security number in any public manner.

♦ circulate class rosters or attendance sheets with student names and social security numbers or grades.
DO NOT...

♦ discuss student record information with their parents, spouse or friends. Only the student can release information to a person who is not allowed record access by FERPA law.

♦ provide anyone with lists of students enrolled in your classes.

♦ provide anyone with student schedules or assist anyone other than College employees in finding a student on campus.
  – Contact the Office of Student Affairs at 7221 or Public Safety at 7901; they can contact the student

***Always log out of Banner/Banner Web when leaving your desk for a long period of time.

***Do not save files containing confidential information to your desktop or your c:drive (this could be accessed by a person without even logging in). Save to your network drive.
Remember

When in doubt, don't give it out!
The Authoritative Source

♦ Family Policy Compliance Office
  LeRoy Rooker, Director
  U.S. Department of Education
  400 Maryland Ave., SW
  Washington, DC  20202-4605

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