



Family Education Rights and Privacy Act (FERPA)

As an EOU employee, you are responsible for knowing and understanding the laws related to the permissible use and release of student records. The following topics will be addressed:

- What are the legal constraints on use and disclosure of education records?
- What are the responsibilities of EOU employees regarding student records?
- What are the students' rights regarding their education records?
- Which education records may be released and under what circumstances, and which education records may not be released?
- Who can you contact when you have questions about appropriate ways to handle students' records?

What is FERPA?

The laws and regulations on maintaining and using student records are the Family Educational Rights and Privacy Act (FERPA) of 1974 (Public Law 93-380), as amended; 34 Code of Federal Regulations, Part 99; Oregon Revised Statutes 351.065, and Oregon Administrative Rules 580-Division 13 and 576-Division 20.

Student Record Privacy

FERPA protects the privacy of all "education records" in any medium, maintained by Eastern Oregon University. Although the law was written in 1974, its coverage is not limited to paper copies. All student education records, including records about students contained in computer databases, are protected.

It is important to respect the privacy of students. Even though a record is not protected by FERPA, it does not mean that the record can be freely released.

For example, other laws protect employment and medical records. Medical records used to accommodate a disability should be kept separately from a student's "education records."

Who at EOU must comply with FERPA?

The answer is simple: All employees of EOU.

Only employees with an educational need to know may access student records, and then only those records necessary for the performance of their responsibilities. For example, faculty members, computer support personnel who might have access to student data, staff members in departmental or administrative offices, librarians, and student employees may have an educational need to know. It also means the president, deans, and department heads may have an education need to know. These are just examples.

What is an Educational Need to Know?

An EOU employee has an educational need to know in accessing or reviewing a student's educational records, if the employee is performing a task that is specified in his/her position description or contract that:

- relates to a student's education or discipline, or
- provides a service or benefit to a student.

An example of an educational need to know would be an academic advisor who needs to review a student's education record to determine what courses have been and/or need to be completed. This is a task related to advising the student. The advisor would not be authorized to view education records that are not relevant to the task at hand, nor do they have the right to access records of students who are not their advisees.

An example of an employee who does not have an educational need to know would be a university grounds keeper.

Who is a Student?

A student is any individual who is or has been enrolled as a student at Eastern Oregon University.

This includes students who are enrolled in any EOU course, whether physically attending the main campus of EOU, Distance Education, OSU Agriculture, OHSU, ODS, Cascades Campus or a consortium student. FERPA continues to apply to a student's records even after they have graduated or otherwise left the University.

What are student education records?

Most student records at the university are considered education records that are protected by FERPA.

Examples of education records include:

- Admissions information for students who are accepted and enrolled;
- Biographical information including date and place of birth, gender, nationality, information about race and ethnicity, and identification photographs;
- Grades, test scores, evaluations, courses taken, and official communications regarding a student's status;
- Course work including papers and exams, class schedules, as well as written, email or recorded communications;
- Disciplinary records;
- Students' finance and financial aid records;
- Internship program records.
- Employment records related to a student's employment in a position for which only students are eligible.

Education Records include any information or data recorded in any medium that is directly related to a student and maintained by the University or by a person acting for the University. Record mediums include, but are not limited to,

electronic databases and files, handwriting, print, tapes, film, e-mail, microfilm, and microfiche.

Restricted records beyond FERPA ...

Some university records are not defined as educational records in FERPA, and the FERPA procedures do not apply to them. However, other legal restrictions do apply to them and they also may not be released. Any subpoena or request for release for these records should be referred to Human Resources or the University General Counsel. Some examples are the following:

- employment records when the employment is not connected to student status (e.g., a staff member who happens to be pursuing a degree at the institution, as opposed to a student employed under the work-study program);
- medical and mental health records used only for treatment of the student; and
- alumni records which do not relate to or contain information about the person as a student (e.g., information collected by the University pertaining to alumni accomplishments).

This is a list of examples only; it is important that all university records be maintained with appropriate restrictions.

Student Rights under FERPA

FERPA protects four specific rights of students. The right to:

- **Inspect**

Students have the right to inspect and review their education records in a timely manner. Specifically, students have the right to inspect their records within 45 days of their request.

- **Amend**

Students have the right to request the amendment of their education records that they believe are inaccurate or misleading.

- **Consent**

Students have the right to consent to disclosures of the personally identifiable information contained in their educational records.

- **Complain**

Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by Eastern Oregon University to comply with the requirements of FERPA.

Disclosure of Education Records

Student education records may not be disclosed to anyone unless

- Written consent has been given by the student
- The request fits one of the legal exceptions.

However, FERPA allows an institution to define "directory information" that can be released. Consent from a student is not generally required for the release of directory information and it may be viewed and released to the public, unless the student has placed a confidentiality restriction on its release.

Directory information for EOU

Defined in OAR 576, Division 20 as the following:

- Student's name
- Current mailing address and telephone number
- E-mail address (only the **campus** address; other e-mail addresses are not directory information)
- Class standing (freshman, sophomore, etc.)

- Month and day (NOT year) of birth
- Major field of study
- Participation in officially recognized activities and sports
- Dates of attendance
- Degrees and awards received
- Date(s) of degree(s)
- Most recent previous educational institution attended

Confidentiality Restrictions

Students have the right to establish a confidentiality restriction on the release of their records including directory information. Before releasing directory information, you must check to see if the student has the “Confidential” restriction in place. You may not release any information about a student who has established confidentiality of their records - you cannot even acknowledge that the student is or ever was registered at EOU.

To check for a student's confidential status, you will need to access one of the database resources for student information at EOU:

- In Banner, any form that lists student specific information will give a warning message when the Student ID is typed in, and then the word “Confidential” will appear in the upper left corner of the form. A common form is SHATERM.
- The Faculty/Staff menu selections in Employee Online Services that display student specific information will also display the word “confidential” adjacent to or near the student's name.
- Blackboard does not have an accessible confidentiality indicator, so you must check other sources to determine confidentiality restrictions.

Shadow systems (spreadsheets, files, personal grade books, etc.) are not reliable sources to determine whether the student has restricted their information.

If the student has placed a restriction on the release of his or her information, the best response to give to the inquirer is to make your answer about their question, rather than about the student. You might say something like, “The only office that can release that type of information is the Office of the Registrar.” Be cautious

that your response does not imply in any way that the individual is a student at EOU.

If the person making the inquiry is persistent, please refer them to the Registrar's Office

Student Consent ...

When giving non-directory information to a third party about a student, you must have a signed written consent from the student before releasing any personally identifiable information. "Personally identifiable" means the information would make the student's identity easily traceable.

This is especially important to keep in mind when you use the data warehouse or IRIS. Even if you suppress students' names and/or identification numbers, the data available in the warehouse and IRIS can be assembled in such a way as to make personally identifiable information about specific students likely if you have groups of 10 or fewer records. You must be very careful about the way you use warehouse and IRIS data to assure that personally identifiable information is not released to any unauthorized person.

Written consent to release personally identifiable information must include the following:

- the precise information to be disclosed
- the purpose of the disclosure
- to whom the disclosure may be made
- the expiration date of the consent (usually, the end of the current term, or three months)
- the student's signature and date of signing

Directory information is releasable unless a student has placed a confidentiality restriction on their records.

Non-directory information is any information about a student that is not in the list of EOU directory information. Non-directory information is not releasable without

the written consent signed and dated by the student defining the specific purpose, recipient, and period of time for the release. Please note: student schedules may not be released under any condition. In case of emergency, transfer the request to the Registrar's office.

A signed and dated **confidentiality restriction** by a student prevents the release of any directory or non-directory information about a student. EOU employees with an educational need to know may access and use restricted records. Release of restricted records to anyone without an educational need to know may occur only with the written consent signed and dated by the student defining the specific purpose, recipient, and period of time for the release.

Restrictions to Student Access ...

Students have a right to access and review their education records, subject only to reasonable time, place and manner restrictions. However, a student does not have the right to see

- confidential letters of recommendation (those to which the student has waived access in writing),
- financial information of their parents,
- those items not defined as education records, or
- records that contain information on more than one student, in which case the student may see only those portions of the record that pertain to her or himself.

Before giving a student access to any information pertaining to them, look at their student ID card to verify their identity.

How do you handle exceptions to FERPA?

As with any law, there are exceptions to the way requests for student data must be handled. Examples are subpoenas for information about a student, or any inquiry made under the provisions of the USA PATRIOT Act.

Whenever you receive a subpoena for information about a student, or a request for information under the USA PATRIOT Act, or any other unusual request for student data, always refer the inquirer to the Registrar's Office or the University General Counsel. The Registrar's Office works closely with University General Counsel to assure the University's legal compliance with all applicable laws.

What about parents' access to their student's records?

One area of FERPA that generates confusion is the right of a parent to access student record information. In this case, the Oregon law applies as well as FERPA. The Oregon law prohibits giving parents access to students' information except with the student's written consent.

Although FERPA is a federal law, it is written in such a way as to permit institutions to be more restrictive in some cases. Since FERPA is permissive, regarding parents' access to information, and **the Oregon law is restrictive, the Oregon law is what prevails in this case.**

You may release student information to parents only with the written consent of the student – regardless of the student's age, or whether the student is a legal dependent of the parent, or whether the parent pays the student's tuition and school expenses.

What happens if someone violates FERPA?

FERPA is a federal law with which all of us must comply.

If you inadvertently or mistakenly violate the confidentiality of any student information, contact the Registrar's Office immediately (541-962-3504) to discuss how we as an institution can remedy the situation. Promptness is essential.

Reckless or repeated negligent violations of FERPA will result in disciplinary action. Serious violations within the University could potentially result in the loss of federal funding for EOU.

FERPA Guidelines for Faculty

- The Registrar is the college's official student records officer. No college employee, faculty member, or student may disclose student information, including directory information, to any outside person or agency without the permission of the registrar.
- Do not post student grades by name, student number or social security number (even just the "last four").
- Do not leave student papers, test and assignments in places in which students go through them to get their own. Hand them back individually to students.
- Do not discuss student grades, progress, attendance, etc., with parents, employers, or other persons outside of EOU.
- Shred any student record information you print—don't just throw it away!

For additional information on FERPA:

<http://www.ed.gov/policy/gen/guid/fpco/ferpa/index.html>

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