

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACTS (FERPA) POLICY

PERTINENT INFORMATION

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. § 1232g, and the Texas Public Information Act, Texas Government Code § 552.001 et seq., are federal and state laws, respectively, that govern the review and disclosure of student records. These regulations set forth requirements regarding the privacy of student records and affords students certain rights with respect to their education records. FERPA applies to institutions that receive funding from the Department of Education and guarantees students three primary rights: (1) to inspect and review their education records, (2) to seek amendment of educational records, and (3) to exercise some control over the disclosure of information from those education records.

Students at the health science center have the right of confidentiality under the federal Family Educational Rights and Privacy Act (FERPA) of 1974. Generally, no one outside the institution shall have access to, nor will the institution disclose, any information from a student's education record without the student's written consent.

The health science center (<http://www.uthscsa.edu/>) affords all the rights under the law to students who are declared independent. However, student education records may be released without written consent for legitimate educational interest. Legitimate educational interest permits access to education records by appropriate health science center administrators, faculty members, staff members or contractors acting on behalf of the health science center, who require such access in order to perform their legitimate educational and business purposes of the student or health science center. Examples include:

- to appropriate school officials, including staff and faculty with the university who have been determined by the university to have legitimate educational interest;
- to officials of other institutions in which students seek to enroll;
- to persons or organizations providing students financial aid provided that such disclosure is necessary to determine eligibility, amount, conditions or enforcement of terms or conditions of the financial aid;
- to accrediting agencies carrying out their accreditation function;
- to organizations conducting studies on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student financial aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted;
- to persons in compliance with judicial order or lawfully issued subpoena, upon condition that the university makes a reasonable effort to notify the student of the order or subpoena in advance of compliance therewith;
- to persons in an emergency in order to protect the health or safety of students or other persons;
- to federal, state or local officials or agencies authorized by law;

- to the parents of a dependent student, as defined in Section 152 of Internal Revenue Code (<http://uscode.house.gov/search/criteria.shtml/>) of 1954, provided a reasonable effort is made to notify the student in advance;
- to an alleged victim of any crime of violence, the results of the alleged perpetrator's disciplinary proceeding may be released;
- to authorized agents, vendors, or contractors of the university who have agreed to abide by the provisions of FERPA regarding covered student data.

All the exceptions identified above are permitted under the Act.

Within the health science center community, only those members, individually or collectively, acting in the legitimate educational interest of the students are allowed access to student education records. A legitimate educational interest is determined by the appropriate administrator from the Office of the University Registrar in consultation with the Vice President for Academic, Faculty and Student Affairs and the appropriate school-specific dean. Release of information to a school official having a legitimate educational interest does not serve as permission to share that information with a third party without the student's written permission.

A record of requests for disclosure and such disclosure of personally identifiable information from student education records shall be maintained by the Office of the University Registrar for each student and will also be made available for inspection pursuant to this policy.

The law provides students with:

1. The right to inspect and review education records within 45 days of the day the university receives a request for access. A student should submit written requests that identify the record(s) the student wishes to inspect to the Office of the University Registrar or appropriate institutional official. The university official will make arrangements for access and notify the requestor of the time and place where the records may be inspected. If the records are not maintained by the university official to whom the request was submitted; that official will advise the student of the correct official to whom the request should be addressed.
2. The right to request the amendment of an education record(s) that a student believes is inaccurate or misleading. The student should write the university official responsible for the record, clearly identify the part of the record for which a change is requested, and specify why it is inaccurate or misleading. If the university decides not to amend the record as requested, the university will notify the student of the decision and advise that student of his/her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided when the student is notified of the right to a hearing. The student may want to consult with staff in the Office of the University Registrar regarding her/his appeal rights and/or the hearing procedure associated with an appeal.
3. The right to consent or to withhold consent to disclosures of personally identifiable information contained in a student's education records, recognizing that FERPA and health science center policy authorize certain disclosures without a student's prior consent. These exceptions are provided below.
 - a. Disclosure to school officials with legitimate educational interests. A school official is defined as a person employed by the university in an administrative, supervisory, academic, or support staff position (including law enforcement unit and

health staff); a person or company with whom the university has contracted (such as an attorney, auditor, authorized agent, vendor or contractor who has agreed to abide by the provisions of FERPA regarding covered data, or collection agent); or a person serving on the Texas Board of Regents or the Board's staff. 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.

- b. Disclosure to officials of other schools or school systems in which a student seeks or intends to enroll, or where a student is enrolled in or receives services.
 - c. Disclosure to parents of a dependent student of such parents, as defined in Section 152 of the Internal Revenue Code of 1986, provided that such dependent status is required to be affirmed by a student's parents in a manner satisfactory to the university prior to release of the student's records.
 - d. Disclosure to comply with a judicial order, or lawfully issued subpoena, upon condition that the university makes a reasonable effort to notify the student of the order or subpoena in advance of compliance therewith.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:
- Student Privacy Policy Office
US Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605

The Vice President for Academic, Faculty, and Student Affairs has been designated by the health science center to coordinate the inspection and review procedures for student education records, which include admissions, personal, academic, financial, and disciplinary records.

DIRECTORY INFORMATION

The health science center designates the personally identifiable information contained in a student's education records listed below as "directory information" in order that the university may, at its discretion, disclose the information without a student's further prior written consent. As such, and at its discretion, the health science center may release historical student and directory information:

- name, address, telephone number, e-mail address;
- photograph;
- date and place of birth;
- major field of study;
- participation in officially recognized activities; sports
- dates of attendance;
- most recent previous educational institution attended;
- classification, level or year of study;
- degrees and awards received;
- date of graduation; and,
- enrollment status (undergraduate, graduate or professional; full-time or part-time).

Students may withhold directory information by making changes to the Privacy Restrictions section of their Profile within My Student Center via students.uthscsa.edu. While My Student Center gives options for

selecting the type of information to be withheld, selecting any of these options will withhold all directory information.

DEFINITION OF TERMS

Family Educational Rights and Privacy Act (FERPA) is a federal law which protects privacy interests of parents and students in their educational records.

An **education record** includes those records, files, documents, and other material that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. Records include electronic and paper files. The Office of the University Registrar and other designated record custodians are designated as the official record holder of student education files.

However, education records do *not* include:

1. Records of instructional, supervisor and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;
2. Records maintained by a law enforcement unit of the educational agency or institution that were created by that law enforcement unit for the purpose of law enforcement;
3. In the case of persons who are employed by an educational agency or institution but who are not in attendance at such agency or institution, records made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose; or
4. Records on a student who is eighteen years of age or older, or is attending an institution of postsecondary education, which are made or maintained by a nurse practitioner, physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, maintained, or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

Additionally, in accordance with UT System requirements, research papers and theses authored by students will be made available to interested members of the public.

Directory Information is information contained in student's education records that is generally not considered to be harmful or an invasion of privacy if disclosed.

Personally Identifiable Information refers to any data element in an education record that, if disclosed alone or together with another data element, would allow a person to reasonably identify the eligible student who is the record's subject.

School Official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position (including law enforcement until personnel and health staff); a person or company with whom the university has contracted (such as an attorney, auditor or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a

disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

Legitimate Educational Interest is established if the information is necessary for the requestor to: perform appropriate tasks specified in a position description or by a contract agreement; perform a task related to a student's education; perform a task related to the discipline of a student; provide a service or benefit to the student such as health care, counseling, job placement, or financial aid; provide educationally related information to the student concerning extra-curricular activities and student organization; or maintain the safety and security of the campus.

A legitimate educational interest is determined by the appropriate administrator from the Office of the University Registrar in consultation with the Vice President for Academic, Faculty and Student Affairs and the appropriate school-specific dean. Release of information to a school official having a legitimate educational interest does not serve as permission to share that information with a third party without the student's written permission.

UNIVERSITY PROCEDURE

Required FERPA Training

The Office of the University Registrar requires that all students, staff, and faculty complete FERPA training bi-annually through UT Learns. Notice of required training reaches students, staff, and faculty through their health science center email accounts, at which time they are prompted to complete online training. Training covers the purpose of FERPA, directory information, and scenarios of potential FERPA violations.

Student requests for inspection of their education records

Students who wish to inspect their records should fill out the Request to Review Education Records Form in the Office of the University Registrar. The form is available on the Office of the University Registrar's website.

The Registrar or other designated record custodian will make the needed arrangements and advise the student when and where the records will be available. The procedure will be completed as promptly as possible, but in all cases, the student will be permitted to inspect the record within 45 business days after the custodian receives the student's request with the following limitations:

1. Financial records and statements of their parents or any information contained therein.
2. Confidential letters of recommendation and confidential statements of recommendation which were placed in the education records of the student, respecting admission to an educational institution, an application for employment, or the receipt of an honor or honorary recognition, provided that the student has waived his or her right to inspect and review those letters and statements of recommendation.
3. Any records that contain personally identifiable information about more than one student; a student may inspect only that information which relates to her/him.

If for any valid reason such as work hours, distance from a student's place of residence to a record location, distance between records location sites, or health, a student cannot personally inspect and review her/his education record, the health science center will arrange for the student to obtain copies of the record.

Request for correction of an education record

The health science center encourages students to periodically inspect and review their education records to make certain the records correctly reflect their academic progress and other achievements.

The school-specific dean assumes full responsibility for the process, procedure, and final decision for students to revise educational records. The final decision is conveyed to the student, the Registrar, and the Vice President for Academic, Faculty, and Student Affairs.

Challenges to the Content of Records-Hearing-Informal Proceedings

Students shall have an opportunity to a hearing to challenge the content of the student record, to ensure that the record is not inaccurate, misleading, or otherwise in violation of the privacy of other rights of students. They shall also be provided with an opportunity for the correction or deletion of any such inaccurate, misleading or otherwise inappropriate data contained therein and to insert into such records a written explanation of the student respecting the content of such records. Any explanation placed in the education record of the student shall be maintained by the health science center.

The health science center shall attempt to settle any dispute with a student regarding the content of the student's education record through informal meetings and discussions with the student. If agreement is reached with respect to the student's request, the appropriate records will be amended. Upon the request of either the student or the university official responsible for a particular portion of the student record in question, a hearing shall be conducted by the Registrar.

1. Such hearings and decisions shall be made by a panel of university faculty and professional staff who do not have a direct interest in the outcome of the hearing.
2. The hearing shall be conducted within twenty days following the request for hearing.
3. The student shall be afforded notice of the date, place and time at least five days in advance of the hearing and shall be afforded a full and fair opportunity to present evidence relevant to the issue pertinent to his or her challenge. The student may be assisted or represented by individuals of his or her choice at her or his expense, including an attorney.
4. The decision shall be rendered in writing within twenty days following the conclusion of the hearing, shall be based solely upon the evidence presented at the hearing and shall include a summary of the evidence and the reasons for the decision.

Decisions of the hearing officer will be final. A written statement summarizing the evidence and stating the reasons for the decisions, and will be delivered to all parties concerned.

Request for Directory Information

Custodians of records will refer all requests for directory information about students to the Registrar. Any requests by external agencies for directory information shall also be directed to the Office of Institutional Research. Costs for preparing the information shall be borne by the requesting parties.

Custodians of Education Records

The health science center reserves the right to refuse to permit a student to inspect and review the following education records:

1. financial records of the student's parent(s) or guardian(s);
2. statements and confidential letters of recommendation prepared by university officials or submitted with the student's application for admission which were placed in the educational records of a student prior to January 1, 1975 or for which the student has waived her/his right of access in writing;
3. records of instructional, administrative, and educational personnel which are kept in the sole possession of the maker and are not accessible or revealed to any other individual except a temporary substitute for the maker;
4. records of law enforcement units;
5. employment records related exclusively to an individual's employment capacity;
6. medical and psychological records;
7. thesis or research papers; or
8. records that only contain information about an individual after the individual is no longer a student at the institution.

Copies

Students may have copies of their educational records. These copies will be made at the student's expense at rates authorized in the Texas Public Information Act except for official transcripts. Official copies of academic records or transcripts will not be released for students who have a delinquent financial obligation or financial hold at the health science center.

Deceased Students

Records of deceased students, current or former, will be reviewed within 90 days after death and purged of all documents except the barest essentials such as the transcript. Personal information from student educational records shall not be released to third parties except as authorized in writing by the deceased student's spouse, executor/ executrix or parents. Written requests for such information should be directed to the Public Information Officer, the Vice President and Chief Financial Officer

Access to file

The health science center has placed responsibility for administration of FERPA with the Registrar. This office is responsible for the administration of this policy. Students who have problems or questions related to the policy should contact the Office of the University Registrar (<http://students.uthscsa.edu/registrar/>) for help. Those who wish to file a complaint under FERPA should do so in writing to the following address:

Student Privacy Policy Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901