

# HOWARD UNIVERSITY POLICY

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<b>Policy Number:</b>	600-002: Student Life
<b>Policy Title:</b>	STUDENT PRIVACY RIGHTS POLICY
<b>Responsible Officer:</b>	Provost and Chief Academic Officer
<b>Responsible Office:</b>	Office of the Provost and Chief Academic Officer
<b>Effective Date:</b>	June 30, 2015 July 1, 2013 (interim policy)

## I. POLICY STATEMENT

It is the policy of Howard University (the “University”) to ensure that information contained within the education records of all students is protected to the fullest extent of the law. In accordance with federal law, the University has a legal obligation to implement a policy addressing the privacy rights of students and to ensure compliance by all members of the University community. To fulfill these obligations, the University has created this *Privacy Rights of Students Policy* to adhere to the regulations established by the *Family Educational Rights and Privacy Act of 1974*, as amended (“FERPA”). FERPA affords all students attending an institution of postsecondary education the right to: (1) inspect and review their education records; (2) request an amendment to education records that are inaccurate or misleading and; (3) exercise some level of control over the disclosure of their education records and the personally identifiable information these education records contain. Further, unless otherwise required by law or permitted by a FERPA exception or exemption, information contained within a student’s education record shall not be disclosed to persons outside of the University without the student’s express written consent.

The Provost and Chief Academic Officer is responsible for implementing this policy and for ensuring that all students, faculty members, administrators and other pertinent University officials are fully aware of their rights, responsibilities and obligations under this policy. The provisions of this policy extend to all undergraduate, graduate, transfer, and foreign and/or domestic exchange students as well as all residents and individuals receiving education and/or training at the University. Moreover, it is imperative that this policy is strictly adhered to by all University administrators, staff and faculty members creating, possessing and/or maintaining any written record/document pertaining to students and their behavior, academic performance or any other matter during their matriculation at the University. Student education records must be maintained for a minimum of three years. In addition to being housed on the University’s Policy Office website, this policy will also be published in the annual *Student Handbook* and on the Office of the Registrar website.

The Provost and Chief Academic Officer shall also ensure that appropriate notice of this policy and its contents are distributed to all University vendors and third parties to whom this policy may apply. If applicable, these individuals are also required to comply with all of the University’s rules and regulations regarding student privacy rights, as set forth within this policy.

## II. RATIONALE

The *Family Educational Rights and Privacy Act of 1974*, as amended, is a federal law enacted to maintain the privacy of student records and outline obligations of the institution. This policy focuses primarily on the areas of release of student records and the access provided to these records. This policy and the procedures outlined herein are federally mandated for all institutions that maintain student education records and receive funds under any program administered by the U.S. Department of Education.

### III. ENTITIES AFFECTED BY THIS POLICY

This policy applies to all students of the University Community regardless of national origin, immigration status or citizenship status. The provisions of this policy apply to the University in its entirety. All Howard constituents, including students, faculty, staff, alumni, visitors, independent contractors and other members of the University community are affected by and required to abide by this policy.

While it is the responsibility of the University to disseminate this policy, it is the responsibility of each member of the University community to read the policy and become familiar with its provisions. Moreover, failure to follow these procedures may inhibit or prevent the University from receiving federally administered funds.

While this policy addresses student education records, the regulations contained herein apply to all students, faculty members and administrators of the University community. This policy applies each time an individual or entity not affiliated with the University community requests information contained within a student's education record. This policy is extended to third parties, including those serving as contractors and vendors if they create and/or maintain possession of or access to any student's education record.

### IV. DEFINITIONS

- A. Directory Information** - Information contained in a student's education record that is generally not considered to be harmful or an invasion of privacy if disclosed. The following non-exhaustive list contains information that the University may release without the express written consent of a student: name, address, telephone number, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, school or college, credit hours earned, degrees earned, enrollment status, participation in officially recognized sports and activities, and honors and awards received.
- B. Education Records** - Those records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational institution or by a person acting for such institution. The following **do not** constitute education records:
1. Records of instructional, supervisory, and administrative personnel in the sole possession of the maker of those records that are not accessible or revealed to any other person, except a substitute teacher or professor;
  2. Records maintained by a "law enforcement unit" of the educational institution created by that "law enforcement unit" for the purpose of law enforcement (such as the Howard University Department of Public Safety or its equivalent);
  3. Employee files made and maintained in the normal course of business, if the person is employed by the institution but not in attendance at the institution;
  4. Records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his or her professional capacity, when such records are made, maintained, or used only in connection with providing treatment to the student and are not available to anyone other than persons providing treatment.

**C. Law Enforcement Unit Records** - Records that are (a) created by a law enforcement entity, (b) created for a law enforcement purpose, and (c) maintained by a “law enforcement unit” (this includes, but is not limited to, those records of the Howard University Department of Public Safety).

**D. Legitimate Educational Interest** - Exists when there is a need to know the information at issue in order for a University official to perform his/her professional responsibilities for the University.

## **V. POLICY PROCEDURES A. Information the University May Disclose**

In accordance with the provisions of both FERPA and this policy, the University may disclose personally identifiable information contained within a student’s education records in instances where:

1. A student has provided written consent permitting the disclosure of such information;
2. Directory information has been requested. In this instance, the University may release the directory information contained within a student’s education records without the student’s written consent. However, a student may submit a written statement to the Provost and Chief Academic Officer specifically requesting that no such data be released without his/her written consent.

## **B. Information the University May Disclose Without Student Consent**

The University may disclose information contained within a student’s education records under the following circumstances, without a student’s written consent:

1. Requests Pertaining to a Legitimate Educational Interest: members of the University Community may disclose information contained within a student’s education records to other University officials, as long as the University uses reasonable methods to ensure that the University officials only obtain access to those education records in which they have legitimate educational interests.
2. Requests by Parents of Dependent Students: information contained within a student’s education records may be disclosed or released to the parents of a student who is considered a dependent for federal income tax purposes. If a student is claimed as a dependent on the federal income tax filings of one or both parents, either parent may be granted access to the student’s education records and the information contained therein. Prior to the release of any information, parents will be required to provide documentation evidencing that the student has been claimed as a dependent for federal income tax purposes.
3. In the Event of a Health or Safety Emergency: in the event the University determines that a student is experiencing a health or safety emergency, parents are expressly included as “appropriate persons” who may receive student record information in connection with the emergency, if the knowledge of the information is necessary to protect the health or safety of the student or other persons within the University community.
4. In Connection with Certain Disciplinary Proceedings Involving Alcohol, Drugs, Crimes of Violence, or Non-Forcible Sex Offenses: the University may disclose information contained within a student’s education records pertaining to any disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students, or other members of the University community. Additionally, the University is

permitted to disclose, to a parent or legal guardian, information contained within a student's education records regarding any violation of federal or District of Columbia law or University policy governing the use or possession of alcohol or a controlled substance if the student is under the age of 21 and the University determines that the student has committed a disciplinary violation with respect to such use or possession.

5. Requests by Other Schools in Which a Student Seeks or Intends to Enroll: the University may disclose information contained within a student's education records to officials at another institution when a student seeks or intends to enroll in the other institution. If information is sought by another institution, the University will make a reasonable attempt to notify the student that it intends to release such student education record information.
6. Requests by Authorized Representatives: the University is permitted to release information contained within a student's education records to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the U.S. Secretary of Education, and state and local educational authorities for audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs.
7. Requests Relating to Financial Aid: the University may release information contained within a student's education records to persons and/or agencies in connection with a student's application for, or receipt of, financial aid.
8. Requests by Organizations for Studies and Accrediting Organizations: the University is permitted to release information contained within a student's education records to organizations conducting studies for, or on behalf of, educational institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction. The University may also release such information to accrediting organizations desiring information to carry out their accrediting functions. When these requests are made, each organization will be required to ensure that a student's personally identifiable information will not be released or retained after its purpose is served.
9. Lawfully Issued Subpoena Requests: upon receipt of a lawfully issued subpoena, the University may disclose any requested information contained within a student's education record in order to ensure compliance with the request. Under these circumstances and absent a court order, the University must make reasonable attempts to notify a student that it has been presented with a subpoena or a judicial order requiring the release of such data and that this request seeks information contained within his/her education records.

In accordance with federal law, the University is required to maintain a record of all those persons requesting and/or gaining access to a student's education records, except when: (a) such disclosures are made to other University officials with a legitimate educational interest and (b) the only information in the student's education records that is released is directory information.

### **C. Information Not Subject to or Protected Under FERPA**

The following statements and/or records are not considered to be education records under FERPA. Therefore, they can be freely discussed, disclosed or shared, subject to other applicable University, District of Columbia and/or federal laws and provisions:

1. Statements Made as a Result of Personal Observations or Direct Interactions Not Derived from an Existing Education Record: neither FERPA nor this policy apply to any personal

observations of or direct interactions with students. Therefore, any member of the faculty, staff or University administration is permitted to disclose his/her personal observations of a student to appropriate persons seeking such information. However, if a member of the faculty, staff or University administration describes his/her observations of a student in a written document, the document is subject to the provisions contained within this policy.

2. Records Created and Maintained by a Law Enforcement Unit for a Law Enforcement Purpose: investigative reports regarding students and other records created and maintained by law enforcement units are not considered education records as long as the records are created, at least in part, for law enforcement purposes. Therefore, the University is not prohibited from disclosing any information contained within law enforcement unit records to anyone, even when the student has not provided a written consent for disclosure.
3. Student Medical Treatment Records: student medical records are not protected by or covered under this policy if they are (1) made or maintained by a physician, psychiatrist, psychologist, or other health care professional acting in his/her professional capacity and (2) made, maintained, or used only in connection with treatment of the student. However, the disclosure of these student medical records is governed by other applicable University policies and federal and District of Columbia laws.

#### **D. Additional Policy Procedures**

1. Right to Inspect and Review Student Education Records: any student, once enrolled at the University as a student of record, shall have the right to inspect and review his/her student education records within 45 days of the day the University receives a written request for such access. The written request must specifically state the record(s) the student wishes to inspect and must be submitted to the Office of the General Counsel for further action. Submission of a written request to inspect education records does not entitle a student to receive a copy of his/her transcript if there is an outstanding University balance. In the event a student with an outstanding balance wishes to inspect and review his/her student education records, the student will be permitted to view the information contained within the education records, in the presence of an authorized University official, but will not be permitted to leave the University with a copy of his/her transcript.

Additionally, the University does place limitations on the types of information a student has the right to inspect and review in his/her education records. More specifically, the University is not required to permit students to inspect and review the following:

- a. Financial information submitted by parents;
- b. Education records containing information about more than one student;
- c. Confidential letters and recommendations placed in the student's file;
- d. Confidential recommendations pertaining to admission to any educational institution, an application for employment, and the receipt of an honor or honorary recognition if the student has waived his/her right to access these confidential recommendations. Waiver applies to recommendations only if:
  - i. Upon request, the student is notified of the names of all persons making confidential recommendations and
  - ii. The recommendations are used only for the purpose they were specifically intended

**NOTE:** waivers may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the University.

It is important to note that parents of a dependent student, as defined by the U.S. Internal Revenue Code, may be granted similar access to inspect and review the education records of the University student, upon submission of documentation evidencing that the student has been claimed as a dependent for tax filing purposes.

2. Right to Seek an Amendment to Education Records: a student may request that the University amend and/or change information contained within his/her education records, if he/she believes that the information is inaccurate, misleading, or in violation of privacy rights. When seeking an amendment, students must provide a written request specifically identifying the part of the education records they want corrected and specify why they believe the current information is inaccurate. This request should be submitted to the department or unit that created the record (e.g., the Office of the Registrar, the Office for Student Services, the Provost). Students will be required to present written documentation in support of their position prior to any possible correction.

**NOTE:** requests for substantive changes such as a grade change, removal of materials such as received evaluations, or outcome in a judicial proceeding will not be changed under the FERPA amendment process.

Within 30 calendar days of receiving a written request seeking an amendment to education records, the department or unit will consider the request and notify the student of the final determination regarding the request. This notification will be submitted to the student, in writing, and will detail the reasons supporting the University's decision to either accept or reject the amendment proposal.

3. Filing a Complaint: each student has the right to file a complaint with the Department of Education concerning alleged failure by the University to comply with the requirements of FERPA and this Policy. Complaints should be filed, in writing, and addressed to the following:

Family Practice Compliance Office  
U.S. Department of Education 400  
Maryland Avenue, SW  
Washington, D.C. 20202-5920

## **VI. SANCTIONS**

The University will take appropriate remedial measures to sanction the offender, mitigate against the potential for recurrence, and discipline any member of the University community who may have failed to comply with this policy, or may have failed to stop activities in violation of this policy when he or she had the authority to do so.

Failure to carry out the responsibilities established by this policy will give rise to disciplinary action, up to and including separation from the University.

## **VII. HYPERLINK**

[www.howard.edu/policy](http://www.howard.edu/policy)

Related Policies:

[Howard University Health Sciences Notice of Privacy Policies](#)

[900-002 Health Insurance Portability and Accountability Act of 1996 \(HIPAA\) Privacy and Security Violations/Sanctions Policy](#)

Other Resource Materials:

[U.S. Department of Education, Law and Guidance series – FERPA](#)

[National Association of Colleges and Employers - FERPA Primer: The Basics and Beyond](#)  
[Joint Guidance on the Application of FERPA and HIPAA to Student Health Records](#)