

HOWARD UNIVERSITY POLICY

PRIVACY RIGHTS OF STUDENTS

This information is designed to ensure that University policy conforms to the regulations set forth in the Family Educational Rights and Privacy Act (hereinafter referred to as “FERPA”). FERPA affords each student attending an institution of postsecondary education the right to inspect and review their “education records,” request an amendment of “education records” that are inaccurate or misleading, and exercise some level of control over the disclosure of their “education records” and the personally identifiable information contained therein. Further, unless required by law, information contained in the student’s “education record” shall not be disclosed or used for purposes other than authorized University purposes, without the student’s express written consent. Student files shall be retained for a reasonable period of time. The Office of the Provost is charged with the responsibility of implementing the policy within the FERPA and University guidelines.

1. DEFINITIONS

A. **“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. This term **DOES NOT INCLUDE**:

- 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
- Records maintained by a “law enforcement unit” of the educational institution created by that “law enforcement unit” for the purpose of law enforcement
- 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
- Records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his professional capacity, when 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

B. **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.

- C. **“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.
- D. **“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, Howard University Campus Police Department).

2. **INFORMATION THAT CAN BE DISCLOSED BY THE UNIVERSITY**

- A. **Written Consent.** The University may disclose information from records subject to FERPA if the student has provided written consent to disclosure of information contained within the education record.
- B. **Directory Information.** The University may release the following information (a non-exhaustive list) without the written consent of the student, unless the student specifically requests, in writing, that no such data be released: 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.
- C. **Exception to the Written Consent Requirement.** In the absence of a student’s written consent, the University may disclose information contained in his/her “education record” to the following persons or in the following situations:
 - 1. **Other school officials with a “legitimate educational interest”:** FERPA permits the disclosure of information from a student’s “education records” to other University officials, without the student’s consent, as long as the University uses reasonable methods to ensure that the University officials obtain access only to those “education records” in which they have “legitimate educational interests”.
 - 2. **Parents of a dependent student:** FERPA permits disclosure of student information to the parents of a student who is considered a dependent for federal income tax purposes. If a student is claimed as a dependent by one or both parents, either parent may be given access to the student’s “education record” and the information contained therein.

- 3. A health or safety emergency:** this FERPA exception expressly includes parents as “appropriate persons” who may receive student record information in connection with a health or safety 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:** FERPA allows the University to disclose information in an “education record” of any student concerning 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. This exception also allows an institution of higher education to disclose, to a parent or legal guardian, information regarding any violation of Federal, State, or local 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 the student has committed a disciplinary violation with respect to such use or possession.
- 5. Other schools in which a student seeks or intends to enroll:** FERPA permits the University to disclose student record information 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 student record information in a particular instance.
- 6. Authorized Representatives:** Information contained in a student’s “education record” can be released to authorized representatives of the United States Comptroller General, the Secretary, or State educational authorities or authorized representatives of the Attorney General for law enforcement purposes. This information can also be released to state and local officials or authorities to whom such information is specifically allowed to be disclosed pursuant to State statute.

7. **Financial Aid:** FERPA allows “education record” information to be released to persons/agencies in connection with a student’s application for, or receipt of, financial aid.
8. **Recognized Organizations for Studies and Accrediting Organizations:** FERPA permits the release of information contained in “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, and to accrediting organizations desiring information to carry out their accrediting functions. **NOTE:** each organization must agree that personally identifiable information may not be released or retained after its purpose is served.
9. **Subpoena:** FERPA permits educational institutions to produce information contained in “education records” as to the entity or persons designated in a Federal grand jury subpoena and the entity or persons designated in any other subpoena issued for a law enforcement purpose. **NOTE:** it is incumbent upon the University to notify a student if the University is presented with a subpoena for his/her record or a judicial order requiring the release of such data.

NOTE: FERPA requires the institution to maintain a record of all those persons requesting and/or gaining access to a student’s “education record” except for information disclosed to other University officials with a “legitimate educational interest” and all requests for directory information.

3. **INFORMATION NOT PROTECTED UNDER FERPA**

- A. **Statements Made as a Result of Personal Observations or Direct Interactions Not Derived From an Existing Education Record.** FERPA does not apply to personal observations of or direct interactions with students. Therefore, if a faculty or staff member describes his/her observations of a student in a document maintained by the University, the document is subject to FERPA. However, the faculty or staff member would still be permitted to disclose his/her personal observations to appropriate persons without violating FERPA.

B. Records Created and Maintained by a “Law Enforcement Unit” for a Law Enforcement Purpose. Investigative reports and other records created and maintained by law enforcement units are not “education records” covered by FERPA as long as the records are created, at least in part, for law enforcement purposes. The University is not prohibited from disclosing “law enforcement unit” records, and the information contained therein, to anyone, even when the student has not provided a written consent for disclosure.

C. Student Medical Treatment Records. Student medical records are excluded from FERPA if they are (a) made or maintained by a physician, psychiatrist, psychologist, or other health care professional acting in his/her professional capacity and (b) made, maintained, or used only in connection with treatment of the student. However, the disclosure of student medical records must comply with HIPAA.

4. INFORMATION NOT AVAILABLE TO STUDENTS UNDER FERPA

A. Financial records of parents

B. Confidential letters and statements of recommendations placed in the “education record” prior to January 1, 1975

C. 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 of access to these confidential recommendations. Waiver applies to recommendations only if:

1. Upon request, the student is notified of the names of all persons making confidential recommendations and

2. The recommendations are used only for the purpose they were specifically intended

3. 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