

# Introduction to FERPA

Family Educational Rights and Privacy Act

Or

## FERPA 101

FERPA is an acronym for the Family Educational Rights and Privacy Act (20 U.S.C. 1232g, 34 CFR § 99). Congress enacted FERPA, also referred to as the “Buckley Amendment,” in 1974.

FERPA conditions federal educational funding on providing student access to, as well as maintaining the privacy of, education records. Faculty, staff and officers at URI are required by FERPA to treat education records in a legally specified manner. The purpose of this presentation is to acquaint you with your legal obligations regarding education records.

The university’s policy in response to FERPA is printed in the *Student Handbook* under the section entitled *Release & Disclosure of Information From Student Records*. FERPA requires that a student’s education records must:

1.) not be disclosed to persons who do not meet the strict definition of a school official who has a legitimate educational interest in the records (or others explicitly granted access under the law),

and

2.) be made available within 45 days to the student for inspection and review.

A school official is:

1. A person employed by the university in an administrative, supervisory, academic or research, or support staff position
2. A trustee or outside contractor such as health or medical staff, an attorney or auditor acting as an agent for the university
3. A student, alumni or other person serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his or her tasks

A school official has a legitimate educational interest, or legal right to know, if the official is:

Performing a task that is specified in his/her position description or contract;  
Performing a task related to a student's education or to student discipline;  
Providing a service or benefit related to the student or student's family; or  
Maintaining safety and security on campus.

An example of a legitimate educational interest 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. Curiosity does not qualify as a legal right to know.

Additional parties to whom educational records may be released without written permission:

1. To officials of another school, upon written request, in which a student seeks or intends to enroll. The student shall receive notification of the disclosure unless the student initiated the disclosure
2. Appropriate persons, in connection with an emergency, if the knowledge of such information is necessary to protect the health or safety of the student or others
3. To comply with a judicial order or lawfully issued subpoena, provided the university makes a reasonable effort to notify the student in advance of compliance, unless the university receives a federal grand jury subpoena or other subpoena prohibiting notification

Student records include any and all records, in any medium, maintained by URI which are directly related to a student (or are personally identifiable records or files). The terms “student records” and “education records” are often used interchangeably. They are, however, distinguishable under FERPA. The following student records are not considered education records and are not subject to FERPA protection:

- URI law enforcement records;
- Employment records where employment is not connected to student status;
- Medical and mental health records used only for the treatment of the student (protected by other laws);
- Faculty and staff personal records not shared with others (the memory-jogger type of record); and
- Alumni records which do not relate to the person as a student.

Written permission must be obtained from the student before releasing an education record, unless the request for release fits certain exceptions. The section “Release of Student Education Records” summarizes these exceptions.

One exception, for which written permission from the student is not *generally* required, is the release of directory information. To complicate matters, however, there is an exception to this exception. Students may request that the Registrar keep all or part of the directory information restricted from release. Directory information in a restricted record may not be released without written permission from the student, unless the request for release fits certain exceptions (discussed later).

FERPA does not *require* the release of directory information, but allows the university to designate certain information as directory information that may be released without seeking written permission of the student. Students are able to indicate that they do not want any directory information released. The release of directory information from such restricted records is prohibited without written permission from the student, unless the requester fits the profile of those allowed access to education records without the written permission of the student.

Directory information may be given to the requester, either in person, by mail, or by telephone, and may be otherwise made public.

Requests for releasing any directory information should be directed to the Office of Enrollment Services to see if the student has placed a hold on the release of directory information.

URI has chosen to designate the following as directory information:

- Name of student;
- Address (both local, including e-mail address, and home);
- Telephone number (both local and home);
- Dates of attendance;
- Full or part-time status;
- Major field of study;
- Degrees and awards received;
- The name of the most recent previous educational institution attended;
- Class year and graduation dates;
- Participation in officially recognized activities and sports;
- Weight and height of members of athletic teams; and
- Date and place of birth.

Rights are granted to the student to challenge education records on the basis of clerical error or for a violation of privacy. If the student believes that the education record is inaccurate, misleading, or in violation of his or her privacy rights, the student may ask that the record be changed. If the request for a change is denied, the student has a right to a hearing on the issue. Grades are not applicable under FERPA.

## Questions

### **Can a professor obtain a copy of student education records without the student's written permission?**

A school official (and this includes professors) may obtain a copy of a student's record without consent of the student *only when the school official has a "legitimate educational interest" (or a legal "right to know")*.

### **I have access to computerized education records. Does this mean I am authorized to view all of the available records?**

No. The confidentiality provisions of FERPA still apply, and a school official should only access a student's education record if a legitimate educational interest exists with respect to that student and that record.

### **What should I do if someone from the media asks for information about a well-known person who was once a URI student?**

FERPA protects the education records of former and current students. Thus, educational record information about a former student cannot be released without the written permission of the student. Directory information could be released as long as no hold has been placed on the directory information (i.e., directory information published in the annual URI Alumni Directory).

### **Do any special rules apply to transcripts or Social Security numbers?**

Yes. The Registrar is the only person authorized to issue transcripts, and an official transcript is issued only when requested by the student in writing. Social Security numbers are personally identifiable and contain private information. They must be treated as education records.

## **What rights does FERPA give to students?**

FERPA grants students the right to inspect and review their student records, except for those portions of the records that are not considered education records. Thus, a student could not review:

portions of a record containing information about students other than the requesting student;  
medical or mental health records; or  
records connected with an application to attend URI or a component unit of URI if that application is denied.

## **What limits apply to the disclosure of information from a student's education record to a third party?**

Records may be disclosed to a third party only if the student has given written permission for the additional disclosure, or if a legitimate educational interest has been articulated for disclosure to the third party and noted in the record. This limitation does not apply to directory information.

## **What if I receive a fax from a student requesting a copy of his/her education records?**

URI policy is to grant a student inspection of records only upon written request, ordinarily to be presented in person with appropriate identification, and made in the presence of the designated personnel of the office maintaining the records. Students may request and provide written authorization for a copy of their education records to be provided to a third party, such as an attorney.

## **May I charge a copying fee for the student record?**

Yes, in response to an authorized request for a copy of a student's education records. URI may charge a reasonable fee for the copy.

## **How do I respond to a request for the education records of a deceased student?**

At URI, the practice is not to release the education records of a person who has died. Requests for exceptions to this practice should be directed to the Office of Enrollment Services.



## Tips

DO review a copy of the URI student records policy before responding to a request for education records.

DO NOT release directory information on a student without checking with the Registrar to see whether the information has been flagged for non-release.

DO refer all subpoenas or IRS summons or other legal process requests for student education records to the Office of Enrollment Services.

DO obtain written permission from the student before sharing educational record information, including grades and grade point averages, with parents or others outside the institution.

DO NOT request information from the education record custodian, or access the student's file by computer, unless you have a legitimate educational interest and are authorized under the URI student records policy to access the information.

DO follow the confidentiality provisions of FERPA by not sharing educational record information with your colleagues unless a legitimate educational interest exists.

DO keep only those records pertaining to a student that are necessary for the fulfillment of your teaching or advising responsibilities. If these records are kept in your file for your own use and are not shared with anyone else (other than a substitute) they are not considered education records and will not be subject to the release provisions of FERPA.

DO NOT put purely personal notes (for example, from a committee meeting recommending students for a particular program) in the student's file, as they will become accessible to the student. Such records can be kept confidential only if they are kept in the sole possession of the maker and are not accessible or revealed to any other person. Official committee minutes are likely to be considered accessible.

Tips

**DO NOT** display student grades or scores publicly in association with names, Social Security numbers or other personal identifiers. If scores are posted, use a code known only to you and the student.

**DO** remember that medical, mental health and law enforcement records should not be put in the student's file with the student's education records.