



## FERPA Policy

### What is FERPA (Family Educational Rights & Privacy Act)?

The Family Educational Rights and Privacy Act of 1974, 20 U.S.C. § 1232g, is a Federal law that protects the privacy of education records for eligible students. FERPA applies to all educational institutions that receive funds under the Department of Education.

### What are education records?

Under FERPA, education records are defined as records that are directly related to a student and are maintained by an educational agency or institution or by a party acting for the agency or institution. A record means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

Education records **do not include** things such as:

- Sole possession records - records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- Medical treatment records that are made and maintained by a health care provider acting in his or her official capacity; and made, maintained, or used only in connection with the provision of treatment to the student, and not available to anyone (including the student) other than persons providing such treatment;
- Records created and maintained by a law enforcement unit for the purpose of law enforcement;
- Employment records that are made and maintained in the normal course of business and relate exclusively to the individual's employment;
- Post-attendance records (information created or received after an individual is no longer a student in attendance) and does not relate to the individual's attendance as a student.

### What is directory (non-private) information?

Under FERPA, directory information may be disclosed, upon request, without prior consent of the student. Directory information is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

Tulane had designated the following as directory information:

- **Student name (Legal name and Preferred Name)**
- **Permanent, Local, & Campus Addresses**
- **Telephone Numbers**
- **Email Address**
- **Dates of Attendance**
- **Classification**
- **Major**
- **Awards/Honors**
- **Degrees Conferred**

- **School**
- **Enrollment status (e.g., freshman, sophomore, junior or senior; first-year, second-year, or third year)**
- **Full/part time status**
- **Past/Present participation in University sanctioned sports/activities**
- **Physical factors (height, weight, etc. for athletes)**
- **Hometown**

**What information is shared on Tulane’s online directory?**

If a student did not restrict the release of his or her directory information, the following directory information is available on Tulane’s online directory (found at <http://tulane.edu/phonebook.cfm>): student’s full name (first, last, and middle initial); Tulane.edu email; and school of study.

For example:

Name	Email	Phone	Group
Wave, Green	gwave@tulane.edu	000-0000	Student, School of Liberal Arts

**What directory information is available on WaveMail?**

A portion of a student’s directory information is available on WaveMail, if the student did not opt of directory information disclosures. Only people with a Tulane.edu email can access this information. Such directory information includes: student’s full name (first, last, and middle initial); Tulane.edu email; enrollment status; major; and school of study. For example:

The screenshot shows a contact form window titled 'Wave, Green' with a sub-header 'FR COMM'. The form has several tabs: 'General', 'Organization', 'Phone/Notes', 'Member Of', and 'E-mail Addresses'. The 'General' tab is active and contains the following fields:

- Name:** First: Green, Last: Wave, Display: Wave, Green, Alias: gwave
- Address:** (empty), Title: FR COMM, Company: student
- City:** (empty), Department: School of Liberal Arts
- State:** (empty), Office: -
- Zip code:** (empty), Assistant: (empty)
- Country/Region:** (empty), Phone: 000-0000

At the bottom of the form are buttons for 'Add to Contacts', 'Actions', 'OK', 'Cancel', and 'Apply'.

**Is Tulane required to release a student’s directory information?**

No. The only required disclosure of education records is to the student. All other disclosures, including those with student consent and disclosures of directory information, are at the discretion of the institution.

**What is considered non-directory (private) information?**

Non-directory (private) information is information contained in a student’s education record that generally would be considered harmful or an invasion of privacy if disclosed. Such information may not be released without prior written consent from the student.

**How can I authorize disclosure of non-directory (private) information)?**

Students can disclose non-directory (private) information by filling out a FERPA Release Form. The FERPA Release Form may be found at: [http://registrar.tulane.edu/FERPA\\_Policy](http://registrar.tulane.edu/FERPA_Policy).

**Are there circumstances where non-directory (private) information is released without prior written consent of the student?**

Yes, there are circumstances where prior written consent to disclose non-directory (private) information is not required, such as:

- The disclosure is to other “school officials” with “legitimate educational interests.” A “school official” is any person employed by Tulane in any administrative, supervisory, academic or research, or support staff position (including public safety and health services staff); any person or company with whom Tulane has contracted to provide a service to or on behalf of Tulane (such as an attorney, auditor, or collection agent); any person serving on Tulane’s Board of Administrators; or any student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a “legitimate educational interest” if the official needs to review an education record in order to fulfill the official’s professional responsibility.
- The disclosure is to officials of another school where the student seeks or intends to enroll
- The disclosure is in connection with financial aid for which the student has applied or received
- The disclosure is to comply with a judicial order or lawfully issued subpoena
- The disclosure is to parents if the student is a dependent for tax purposes
- The disclosure is in connection with a health or safety emergency
- The disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense.

**What rights are afforded to students under FERPA?**

Students have four main rights under FERPA:

1. The right to provide written consent before Tulane University discloses personally identifiable information from the student’s education record, except to that extent that FERPA authorizes disclosure without consent.

2. The right to inspect and review the student's education record within 45 days of the day Tulane University receives a request for access.
3. The right to request an amendment to the education record that the student believes is inaccurate, misleading or otherwise in violation of the student's privacy rights under FERPA.
4. The right to file a complaint with the U.S. Department of Education concerning alleged failures by Tulane University to comply with the requirements of FERPA.

### **How can a student restrict the release of directory information?**

According to FERPA, a student can request that the institution not release any directory information about the student. Institutions must comply with this request, once received, if the student is still enrolled. At Tulane, students who wish to restrict the release of directory information may do so at any time by selecting "Update Confidentiality Flag" under Records on Gibson. Students who do not wish to have their address (or other information) published in the student directory must make the appropriate selection no later than September 30.

Under FERPA, a student may not use his or her right to opt out of the directory information disclosures to prevent school officials from identifying the student by name or disclosing the student's electronic identified or institutional e-mail, in a class in which the student is enrolled.

*NOTE:* Please consider your decision to restrict directory information carefully, as ANY and ALL requests for directory information will be refused, including but not limited to Dean's list publication, graduation newspaper articles, etc. **Please be aware that restricting the release of directory information will withhold your email address from the Tulane online directory as well as Tulane's email Outlook Global directory. When Tulane faculty, staff, and students attempt to send you an email via Tulane's email network, your email address will not auto-populate in the address bar.**

### **How can a student review and inspect education records?**

The right to inspect and review the student's education records (with certain limited exceptions) within 45 days after the day Tulane receives a written request for review and access. A student should submit to the registrar, dean, head of the academic department, or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The school official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the school official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed. Records that are customarily open for student inspection will be accessible without written request. The FERPA Records Request Form may be found at: [http://registrar.tulane.edu/FERPA\\_Policy](http://registrar.tulane.edu/FERPA_Policy).

### **Can students receive copies of their education records?**

The right of access to education records in some cases includes the right to obtain copies, when physical distance would prevent the actual viewing of the record.

The university will authorize copies to be made only in those cases where failure to provide copies would effectively prevent a dependent student's parents, or the student, from exercising the right to inspect and review the education records. Any requests for copies of a student's education record should be sent in writing to the Office of the General Counsel. Reasonable costs will be charged for copies and postage.

### **How can a student request an amendment to his/her education records?**

Students may ask the University to amend a record that they believe is inaccurate, misleading or in violation of the student's right of privacy. After a student has reviewed his or her education record, a request to amend the record must be made in writing to the University official responsible for the record. By law, the University is required to consider only requests to amend information that is inaccurately recorded. Requests for substantive changes such as a grade change, removal of materials such as received evaluations, or outcome in a judicial proceeding are not covered under the FERPA amendment proceeding.

A proper request to correct a student education record must:

- Be written to the University official responsible for the record;
- Clearly identify the part of the record they want to be changed; and
- Specify why the record is inaccurate, misleading or in violation of the student's privacy rights.

The student should write the University official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed. If the University decides not to amend the record as requested by the student, the University will notify the student of the decision and advise the student's right to a hearing regarding the request for amendment.

### **FERPA Hearing Process**

Under 34 C.F.R. § 99.20, the process of requesting an amendment also includes provision for an opportunity for a hearing if there is disagreement between the student and the holder of the record as to whether an amendment should be made. Changing or amending the student's educational record is limited to inaccurate, misleading information or if the information contained in the record is a violation of a student's privacy rights.<sup>1</sup> Through a request for a FERPA hearing, in the event of a disagreement between the student and Tulane, a student may challenge the content of a record created by Tulane. **This ability to challenge the content of a record does not supplant any of the other appeals processes already in place at Tulane, including, but not limited to, grade appeals, academic hearings, or nonacademic misconduct hearings. For example, a student can request a FERPA hearing to assert that a grade was not properly recorded, but this process cannot be used to argue that a different grade should have been assigned based on the quality of work.**

A formal hearing may be held at the University's sole discretion if there is disagreement between the student and the holder of the record as to whether an amendment should be made. A hearing request must be made in writing by the student and directed to the Provost. The Provost will notify

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<sup>1</sup> 34 CFR 99.21(b)(2).

the student, within a reasonable time after the request is received, as to the date, time and place of the hearing, reasonably in advance of the hearing. **The hearing procedures outlined do not attempt to recreate or approximate a court of law.**

- Student Rights at the Hearing:
  - To present information and evidence challenging the content of a student's education records on the grounds that the information contained in the education records is inaccurate, misleading, or in violation of the privacy rights of the student. **The hearing is not an opportunity to review substantive decisions by University faculty or staff concerning evaluation of academic work or outcomes of disciplinary proceedings.** 34 C.F.R. § 99.21(a).
  - To have a hearing officer who does not have a direct interest in the outcome of the hearing. 34 C.F.R. § 99.22(c).
  - To be advised by one or more individuals, including counsel. 34 C.F.R. § 99.22(d).
  - To have a full and fair opportunity to present evidence concerning requested corrections to the education record. 34 C.F.R. § 99.22(d).
  - To receive, within a reasonable period of time after the hearing, a written decision based solely on the evidence provided at the hearing. The decision will include a summary of evidence and reasons for the decision. 34 C.F.R. § 99.22(e), (f).
  - Be provided notice of the date, time, and place, reasonably in advance of the hearing. 34 C.F.R. § 99.22(b).
  - To submit a statement into his or her education record commenting on the contested portion of the record which will be provided to any person who later views that portion of their education record, if the amendment is denied. 34 C.F.R. § 99.21(b)(2).
- University Rights and Responsibilities When a Hearing is Requested:
  - The hearing officer may be any University official who does not have a direct interest in the hearing outcome. **The hearing shall in all respects be under the control of the hearing officer and shall not be subject to formal rules of evidence or procedure.** 34 C.F.R. § 99.22(c).
  - To deny a request for a hearing when the proposed amendment to the education record is for a purpose not recognized under the regulations.
  - To schedule a hearing within a reasonable time after receiving the hearing request. 34 C.F.R. § 99.22(a).
- Role of the Hearing Officer:
  - To allow the student the opportunity to present evidence relevant to the issues raised. The hearing officer has the right to determine whether particular evidence presented is relevant to the record and issue(s) in question.
  - To make his or her decision solely on the evidence presented at the hearing. 34 C.F.R. § 99.22(f).
  - To provide the student with a timely written decision, including a summary of the evidence and reason for the decision. 34 C.F.R. § 99.22(f).
- Hearing Outcome:
  - If the hearing officer finds that the record is inaccurate, misleading or otherwise in violation of the privacy rights of the student, the University will amend the record accordingly. The student will be notified in writing of the correction. 34 C.F.R. § 99.21(b).

- If the hearing officer finds that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, the University will notify the student of the right to place a statement in the record commenting on the contested portion of the record, or stating why he or she disagrees with the decision not to amend, or both. The University will maintain this statement with the contested portion of the student's education record for as long as the record is maintained. The statement will be disclosed whenever the University is required to disclose the portion of the record to which the statement relates. 34 C.F.R. § 99.21(b), (c).
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### **U.S. Department of Education**

A student has the right to file a complaint with the U.S. Department of Education concerning alleged failures by Tulane University to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

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

### **Annual Notification to Students**

Consistent with its obligations under FERPA, Tulane annually notifies students of the rights accorded them by FERPA. Please see

<https://tulane.edu/studentaffairs/conduct/rights/upload/Annual-Notification-of-Rights-under-FERPA.pdf>



## **FERPA DEFINITIONS**

### **ATTENDANCE**

Includes but is not limited to (a) attendance - in person or by correspondence study (program) and (b) the period during which a person is working under a work-study (cooperative) program.

### **DATES OF ATTENDANCE**

The period of time during which a student attends or attended an institution. Examples of dates of attendance include an academic year, a spring semester, or a first quarter. The term does not include specific daily records or a student's attendance pattern at the institution.

### **DIRECTORY INFORMATION**

Is information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

Tulane has designated the following as directory information:

- Student name (legal name and preferred name)
- Permanent, Local, & Campus Addresses
- Telephone Numbers
- Email Address
- Dates of Attendance
- Classification
- Major
- Awards/Honors
- Degrees Conferred
- School
- Enrollment status (e.g., freshman, sophomore, junior or senior; first-year, second-year, or third year)
- Full/part time status
- Past/Present participation in University sanctioned sports/activities
- Physical factors (height, weight, etc. for athletes)
- Hometown

### **EDUCATION INSTITUTION (OR AGENCY)**

Generally means (1) any public or private agency or institution (including governing boards which provide administrative control or direction of a university system) of post-secondary education that (2) receives funds from any federal program under the administrative responsibility of the Secretary of Education. The term refers to the institution as a whole, including all of its components (e.g., schools or departments in a university).

## **EDUCATION RECORDS**

Those records directly related to a student and maintained by the institution or by a party acting for the institution.

The term "education records" does not include the following:

- Records that are in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other individual except a substitute who performs on a temporary basis (as defined in the institutional personnel policy) the duties of the individual who made the records.
- Records maintained by a law enforcement unit of the education agency or institution that were created by that law enforcement unit for the purpose of law enforcement.
- Records relating to individuals who are employed by the institution which are made and maintained in the normal course of business, relate exclusively to individuals in their capacity as employees, and are not available for use for any other purpose.
- Records relating to a student (see the definition of "eligible student" ) which are (1) created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (2) used solely in connection with the provision of treatment to the student; and (3) not disclosed to anyone other than individuals providing such treatment, so long as the records can be personally reviewed by a physician or other appropriate professional of the student's choice. "Treatment" in this context does not include remedial educational activities or activities which are part of the program of instruction at the institution.
- Records of an institution which contain only information relating to a person after that person is no longer a student at the institution (e.g., information gathered on the accomplishments of alumni).
- Grades on peer-graded papers before they are collected and recorded by a teacher.

## **"ELIGIBLE STUDENT"**

Means a student who has reached 18 years of age or is attending an institution of post-secondary education.

## **ENROLLED STUDENT**

For the purposes of this publication, this term refers to a student who has satisfied all of the institutional requirements for attendance at the institution. The Family Policy Compliance Office has stated that each institution may determine when a student is "in attendance" in accordance with its own enrollment procedures (Federal Register, July 6, 2000, p.41856). At Tulane, a student is considered enrolled when the student has deposited and registered for an academic term until such a time where the student withdraws, takes a formal leave of absence, or graduates.

## **FAMILY POLICY COMPLIANCE OFFICE**

The office within the U.S. Department of Education that is responsible for enforcing/administering the Family Educational Rights and Privacy Act of 1974, as Amended.

**"IN ATTENDANCE"**

(or when is a student "in attendance"): See "Enrolled Student."

**LAW ENFORCEMENT UNIT**

Any individual or other component of an institution, including commissioned police officers and noncommissioned security guards, officially authorized by the institution to enforce any local, state, or federal law and to maintain the physical security and safety of the institution. (Although the unit may perform other non-law enforcement functions, it does not lose its status as a law enforcement unit.)

**LAW ENFORCEMENT UNIT RECORDS**

Those records, files, documents, and other materials that are (1) created by a law enforcement unit, (2) created for a law enforcement purpose, and (3) maintained by the law enforcement unit. Law enforcement records do not include: (1) records created by a law enforcement unit for a law enforcement purpose other than for the law enforcement unit; (2) records created and maintained by a law enforcement unit exclusively for non-law enforcement purposes, such as a disciplinary action or proceeding conducted by the institution.

**LEGITIMATE EDUCATIONAL INTEREST**

A school official has a "legitimate educational interest" if the official needs to review an education record in order to fulfill the official's professional responsibility.

**PARENT**

Includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

**PERSONALLY IDENTIFIABLE**

Data or information which include (1) the name of the student, the student's parent, or other family members; (2) the student's address; (3) a personal identifier such as a social security number or student number; or (4) a list of personal characteristics or other information which would make the student's identity easily traceable.

**RECORDS**

Any information or data recorded in any medium (e.g., handwriting, print, tapes, film, microfilm, microfiche, any form of electronic data storage).

**SCHOOL OFFICIALS**

Any person employed by Tulane in any administrative, supervisory, academic or research, or support staff position (including public safety and health services staff); any person or company with whom Tulane has contracted to provide a service to or on behalf of Tulane (such as an attorney, auditor, or collection agent); any person serving on Tulane's Board of Administrators; or any student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks. A school official has a "legitimate educational interest" if the official needs to review an education record in order to fulfill the official's professional responsibility.

**SOLE POSSESSION RECORDS**

Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

## **TREATMENT RECORDS**

Records relating to a student (see the definition of "eligible student" ) which are (1) created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (2) used solely in connection with the provision of treatment to the student; and (3) not disclosed to anyone other than individuals providing such treatment, so long as the records can be personally reviewed by a physician or other appropriate professional of the student's choice.