FERPA Basics for Faculty/Instructional Staff

The Essence

- Federal law designed to protect the privacy of education records. It also provides guidelines for appropriately using and releasing student education records.
- It is intended that students' rights be broadly defined and applied. Therefore, consider the student as the owner of the information in his or her education record, and the institution as the custodian of that record.

Key Terms/Definitions

**EDUCATION RECORDS** include any record maintained by the institution that contains information that is personally identifiable to a student (in whatever format or medium) with some narrowly defined exceptions:

- Records in the sole possession of the maker (e.g., private advising notes).
- Law enforcement records created and maintained by a law enforcement agency for a law enforcement purpose.
- Employment records (unless the employment is based on student status). The employment records of student employees (e.g., work-study, wages, graduate teaching associates) are part of their education records.
- Medical/psychological treatment records (e.g., from a health or counseling center).
- Alumni records (e.g., those created after the student graduated or left the institution).

**DIRECTORY INFORMATION:** Those data items that are generally not considered harmful or an invasion of privacy if publicly available. This information cannot be released if student has a **no release** on his or her record. This information is listed in Jenzabar on the Student Information screen and on class rolls. Directory information at Charleston Southern University includes, but is not limited to:

- name, address and telephone listing
- email address
- date and place of birth
- field(s) of study
- participation in officially recognized activities and sports
- weight and height of student-athletes
- dates of attendance, degrees and awards
- photographs
- most recent previous school attended
- full-time or part-time status

Directory information **cannot** include: race, gender, SSN (or part of a SSN), grades, GPA, country of citizenship or religion.

- Every student must be given the opportunity to have directory information suppressed from public release. This process is referred to as an **opt out**. When a student makes this request, everyone within the institution must abide by a student's request that no information be released about the student, including verification that the student is enrolled at the institution. This can be found in Jenzabar and on advisor rosters in MyCSU.
- It is important to understand, that a **no release** does not mean that a school official within the institution who has a demonstrated legitimate educational interest (e.g., a faculty member teaching the student in class) is precluded from using the information to perform that official's job duties.

**PARENT:** With reference to FERPA, the term parent refers to either parent (including custodial and noncustodial, if divorced).
When do FERPA rights begin?
A FERPA-related college education record begins for a student when he or she enrolls in a higher education institution. At a postsecondary institution, rights belong to the student in attendance, regardless of the student’s age.

Basic Rights of Students under the Act

**Inspection and Review**
Students have the **right** to see everything in their education record, except:

- Information about other students;
- Financial records of parents; and
- Confidential letters of recommendation if they waived their right of access.

FERPA does not prescribe what records are created or how long they are to be kept; however, you cannot destroy a record if there is a request to inspect and review. It is important to know and understand your institution's records retention policy.

**Right to Consent to Disclosure**
Start with the premise that the student has the right to control to whom his or her education record is released. Then, there are several exceptions when that permission is not required.

WHEN IS PRIOR CONSENT NOT REQUIRED?
The institution may disclose records without consent if certain requirements are met, but it is not required to do so. Some examples of the exceptions to the release requirement include:

- School officials with a legitimate educational interest. Employees and legal agents have access to education records in order to perform their official, educationally related duties.
- Disclosure to organizations conducting studies to improve instruction, or to accrediting organizations.
- To comply with a judicial order or lawfully issued subpoena.
- Disclosure for a health/safety emergency (must document what the emergency was and to whom the information was released).
- Disclosure of directory information provided the student has not requested **no release**.

Some Specific Issues for Faculty and Instructional Staff

- **POSTING GRADES:** Since grades can never be directory information, it is inappropriate to post grades in a public setting. An instructor may, however, post grades if the grades are posted in such a manner that only the instructor and the individual student can identify the individual and his or her grade. Grades should never be posted by any portion of the SSN or ID number. Additionally, it is recommended that such a posted list should not be in the same order as the class roster or in alphabetical order.
- **WEB-BASED TOOLS TO SUPPORT CLASSES:** Courses supported by class websites and/or discussion groups must take extra precautions to not inadvertently release nondirectory student information. Only directory information can be available to the general public and other class members, so it is recommended that such web-based tools employ a security layer so that only class members and instructors can access appropriate information.
- **STUDENTS OPTING FOR NO RELEASE IN THE CLASSROOM SETTING:** Students cannot choose to be anonymous in the classroom setting. If a student has chosen **no release** for his or her directory information, that does not mean that an instructor cannot call on him or her by name in class or that the student’s email address cannot be displayed on an electronic classroom support tool such as a discussion board, blog, or chat feature.