

Family Educational Rights and Privacy Act (FERPA) Basics for Students

East Central College complies with the Family Educational Rights and Privacy Act of 1974 (FERPA)*, a federal law that protects the privacy of student education records. All information other than directory information is restricted and will not be released without first obtaining the student's signed consent.

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).

"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. Each institution establishes what it considers to be directory information. Common examples include: name, address (local, home and email), telephone (local and home), academic program of study, dates of attendance, date of birth, most recent educational institution attended, and degrees and awards received.

Directory information *cannot* include: race, gender, SSN (or part of an SSN), grades, GPA, country of citizenship, or religion. Except in very specific circumstances, a student ID number (SIN) also cannot be considered directory information.

East Central College defines directory information as follows:

- Student name
- City of Residence
- Program of Study
- Academic Classification (Freshman/Sophomore and Full-Time/Part-Time)
- Participation in Recognized Activities (including photographs of sponsored activities)
- Date of Attendance (including matriculation and withdrawal dates)
- Degrees, Certificates, Recognitions, and Awards received
- Individual and Group Photographs

Every student must be given the opportunity to have directory information suppressed from public release. This process is often referred to as a "no release," "opt out" or "suppression." 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.

"PARENT:" With reference to FERPA, the term "parent" refers to either parent (including custodial and non-custodial, if divorced).

Basic Rights of Students under the Act

Annual Notification

Every institution must notify students of their FERPA rights at least annually.

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.

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. In those instances, where a signed release is required, regulations now provide the flexibility to accept an electronic signature.

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.
- Disclosure to parents of *dependent students* (IRS definition); Check to see how your institution expects parents to demonstrate student dependent status.
- 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. Additionally, it is recommended that such a posted list should not be in the same order as the class roster or in alphabetical order.
- **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.