



What is FERPA?

Informational Guidelines

The **Family Educational Rights and Privacy Act of 1974** helps protect the privacy of student education records. The *Act* provides for the right to inspect and review education records, the right to seek to amend those records, and the right to limit disclosure of information from the records. The intent of the legislation is to protect the rights of students and to ensure the privacy and accuracy of education records. The *Act* applies to all institutions that are the recipients of federal aid administered by the Secretary of Education.

What rights does FERPA afford students with respect to their education records?

- The right to inspect and review their education records within 45 days from the day the university receives a request for access. Students should submit written requests to identify the record(s) they wish to inspect. The staff of the office will make arrangements for access and notify the student of the time and place where the records may be inspected. If the requested records are not maintained in the Office of the Registrar, the student will be notified of the correct official to whom the request should be addressed.
- The right to request an amendment to their education records that the student believes is inaccurate or misleading. Students may ask the university to amend a record that they believe is inaccurate or misleading. They should write clearly to identify the part of the record they want changed, and specify why it is inaccurate or misleading.

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 of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing will be provided to the student when notified of the hearing.

- The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception, which permits disclosure without consent, is disclosure to school officials with legitimate educational interests. A school official is a person employed by the university in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the university has contracted to perform a service or function which would otherwise be performed by campus employees and is under direct control of the school regarding maintenance and use of the education records for legitimate educational interests while not disclosing or using educational data for unauthorized purposes; a person serving on the Board of Trustees; or a 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 his or her professional responsibility.

- The right to file a complaint, with the U.S. Department of Education, concerning alleged failures by the college to comply with the requirements of FERPA.

Who is protected under FERPA?

Students currently enrolled or formerly enrolled regardless of their age or status with regard to parental dependency. Students who have applied (but have not attended an institution) and deceased students are not protected under FERPA.

Current students have the option to release/ disclose their record information (academic, financial aid, financial account and housing) to designated person (e.g. parent or legal guardian). They may access the MySJSU portal to complete "an Authorization to Release" for their designee(s), see the guide.

What are education records?

With certain exceptions, an education record is any record (1) from which a student can be personally identified and (2) maintained by the university. A student has the right of access to these records. Education records include any records in whatever medium (handwritten, print, magnetic tape, film, diskette, etc.) that is in the possession of any school official. This includes transcripts or other records obtained from a school in which a student was previously enrolled.

What is not included in an education record?

- *sole possession records or private notes held by school officials that are not accessible or released to other personnel,*
- *law enforcement or campus security records that are solely for law enforcement purposes and maintained solely by the law enforcement unit,*
- *records relating to individuals who are employed by the institution (unless contingent upon attendance),*
- *records relating to treatment provided by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional and disclosed only to individuals providing treatment,*

- records of an institution that contain only information about an individual obtained after that person is no longer a student at that institution, i.e., alumni records.

What is directory information?

Institutions may disclose information on a student without violating FERPA if it has designated that information as “directory information”. However, SJSU’s policy on student directory information disclosure is more restrictive and will only allow disclosure of dates of enrollment and degrees.

How does a student authorize release of their education record in the form of an academic transcript?

Students must authorize the release of their transcript by submitting a request for an official copy of their transcript using the online ordering service through Parchment.

Visit our Transcript Portal to learn more information.

Who may have access to student information?

- The student and any outside party who has the student’s written request.
- School officials (as defined by the University) who have “legitimate educational interests.”
- Parents of a dependent student as defined by the Internal Revenue Code.
- A person in response to a lawfully issued subpoena or court order, as long as the University makes a reasonable attempt to notify the student first. Normally, the University will comply with a subpoena after two weeks have

elapsed from the day the subpoena was received.

When is the student’s consent not required to disclose information?

When the disclosure is:

- to school officials (defined in policy) who have a legitimate educational interest,
- to federal, state, and local authorities involving an audit or evaluation of compliance with educational programs,
- in connection with financial aid; this includes Veterans’ benefits,
- to organizations conducting studies for or on behalf of educational institutions,
- to accrediting organizations,
- to comply with a judicial order or subpoena
- in a health or safety emergency,
- releasing directory information but **SJSU provides only for enrollment and degrees earned.**
- releasing the results from disciplinary hearing to an alleged victim of a crime of violence.

How will increasing technology impact FERPA on our campus?

The use of computerized record-keeping systems is increasing at a fast pace. We can anticipate that the distribution of electronic data will eventually replace most paper documents, and provide much information about students to school officials through desktop media. It is the responsibility of each school official to understand their legal responsibilities under FERPA. The same principles of confidentiality that apply to paper records also apply to electronic data.

Does FERPA allow educational agencies and institutions to use cloud computing solutions?

FERPA does not prohibit the use of cloud computing solutions for the purpose of hosting education records; rather, FERPA requires States to use reasonable methods to ensure the security of their information technology (IT) solutions. As noted in the preamble to the December 2, 2011, amendments to the FERPA regulations, “the Federal Government itself is moving towards a model for secure cloud computing. Regardless of whether cloud computing is contemplated, States should take care that their security plans adequately protect student data, including PII [personally identifiable information] from education records, regardless of where the data are hosted.

Does SJSU prohibit the use of cloud computing solutions to host education records?

See SJSU guidelines on the use of cloud computing solutions/ services.

FERPA CONTACT INFO:

Family Policy Compliance Office

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