

# **FERPA FOR FACULTY AND STAFF**

## **Family Educational Rights and Privacy Act**

EKU FERPA web page: <http://registrar.eku.edu/ferpa>

### **FERPA training at EKU**

Every EKU employee with access to student records must be FERPA trained. Every three years all faculty and staff will be expected to refresh their FERPA training and complete a certification test. You will be asked to do this during your initial academic year at EKU. The training will be done either online or in-person, the testing will be online. Below is a basic information sheet to get you started down the path to FERPA awareness.

### **What is FERPA?**

The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment, helps protect the privacy of student records. The Act provides the right for students to inspect and review their educational records, to seek to amend those records, and to limit disclosure of information from those records. The Act applies to all institutions that are the recipients of federal funding.

### **Who is Protected under FERPA?**

Currently enrolled or formerly enrolled students, regardless of their age or parental dependency status. FERPA does not apply to deceased students or persons who have applied but have not attended.

### **What are Educational Records?**

With certain exceptions, an educational record is any record from which a student can be personally identified, and is maintained by the University or an authorized party.

Educational records include any records in the possession of an employee that are shared with or accessible to another individual. The records may be handwritten, print, film, electronic, or some other medium. A student has the right to access these records. FERPA does not require that certain records be kept, but addresses the rights of the student and controls disclosure of student education records. State regulations, accreditation guidelines and/or institutional policy determine the specific archiving needs that EKU has for each type of education record.

### **What is Not Included in an Educational Record?**

- a. Sole possession records or private notes held by educational personnel which are not accessible or released to other personnel. Notes you make on a student, *and which you share with no one else*, remain private and are not part of the student's educational record.
- b. Law enforcement or campus security records which are solely for law enforcement purposes.
- c. Records relating to individuals who are employed by the institution (unless employment is contingent upon school attendance).
- d. Records relating to treatment provided by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional and disclosed only to individuals providing treatment. However if ever reviewed for purposes other than medical treatment the disclosures of student treatment records are then subject to FERPA statute, ***not*** HIPAA.
- e. 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 the information as “directory information.” Students must be notified annually of what constitutes directory information. At EKU, this includes, but is not limited to (*see p.2 of the GR & UG Catalogs for full list*):

- a. Student name, address, telephone and e-mail address
- b. Date and place of birth
- c. Major field of study
- d. Participation in officially recognized activities & sports
- e. Weight and height of members of athletic teams
- f. Dates of attendance, degrees, and awards received
- g. Most recent previous institution attended
- h. Student photograph or likeness

**Confidentiality:** Students may, if they desire, request that directory information not be released. Such a confidentiality request must be submitted in writing to the Registrar’s Office. The student may be asked to come to the Registrar’s Office, with photo identification, to verify the signature on the request letter.

Students should consider carefully before requesting confidentiality as it is an “all or nothing” measure. Confidentiality of directory information remains in force until it is revoked in writing.

## **Who May Have Access to Student Information?**

- a. The student and any outside party who has the student’s written consent.
  - At EKU students can create a guest account in EKUDirect that will allow whomever they designate to have access to grades or any other information that is kept in Banner.
  - This guest account is called “WEB-4-Parent” and can be set up through the Office of the Registrar. Refer students or parents there for further information.
  - Most students set up this account to allow 24/7 access for their parents.
- b. A school official with a “legitimate educational interest”.
- c. EKU may choose to release information to parents of a dependent student, as defined by the Internal Revenue Code.
  - a. This is the school’s choice and not mandated by FERPA.
  - b. In the event that the institution chooses to share non-directory information with a parent, the parents must provide a copy of the parent’s most recent Federal Income Tax form to the Office of the Registrar proving the parent declared the student as a dependent, or the student may write a letter stating that they are a dependent of a parent.
  - c. If the institution releases to a parent then both parents may have the information, even non-custodial, or an estranged parent, regardless of who claims the student as their tax dependent.
  - d. Dependent students do not have the right to dictate that the University not release information to their parent.
- d. Legally interested parties in response to a lawfully issued subpoena or court order.

## **What is a School Official?**

- a. A person employed by Eastern Kentucky University in an administrative, supervisory, academic, research, or support staff position.
- b. A person elected to the Board of Regents.
- c. A person employed by or under contract to EKU to perform a special task, such as an attorney or auditor.

## **What is “Legitimate Educational Interest?”**

A school official has a legitimate educational interest if the official is:

- a. Performing a task that is specified in his or her position description or by a contract agreement.
- b. Performing a task related to a student’s education (e.g. their instructor, advisor).
- c. Performing a task related to the discipline of a student.
- d. Providing a service or benefit relating to the student or student’s family, such as advising, job placement, financial aid, or housing assistance.

## **When is the Student’s Consent Not Required to Disclose Information?**

The exceptions:

- a. Officials of another school in which the student seeks to enroll.
- b. Anyone providing financial aid to the student, e.g. Department of Veterans Affairs.
- c. Appropriate parties in a health or safety emergency, to protect health and safety of others.
- d. Results of disciplinary hearings to an alleged victim of a crime of violence or non-forcible sex offense.
- e. Agents acting on behalf of Eastern Kentucky University (clearinghouses, degree/enrollment verifiers).
- f. Parents of a student under age 21 have violated the alcohol or drug policies of Eastern Kentucky University.
- g. Immigration and Naturalization Service for purposes of the Student Exchange Visitor Information System.
- h. Military recruiters who request “Student Recruiting Information.” Student recruiting information is defined as name, address, telephone listing, age, level of education, and major.
- i. Internal Revenue Service in compliance with the Taxpayer Relief Act.
- j. Certain federal, state, and local authorities in connection with an audit or evaluation of state or federally supported educational programs, or accrediting organizations.

## **Students and Grades**

Students cannot use FERPA to claim they have a right to be anonymous inside the classroom. For example you may pass around an attendance sheet and request that students write their name on a list that will be viewed by all students. A student cannot legitimately claim a privacy right and refuse to comply.

The **public posting of grades** either by the student’s name, social security number (partial or whole), or EKU ID without the student’s written permission **is a violation of FERPA**. This includes the posting of grades to a class website where it may be viewed by other students in the class. Notification of grades via a postcard would be another example of violating a student’s privacy rights.

Notification of grades via **personal e-mail accounts** (hotmail, yahoo, gmail) is a **violation of FERPA** unless you a reliable and consistent means to guarantee that the person with whom you are corresponding is the student.

Recommendations:

1. Only discuss a student’s academic record through the student’s secure EKU email account. It is the official means of communication with students.
2. Never post grades in any forum where anyone but that student may view the grade – stick with EKUDirect (it’s safe and you must post your grades there anyway).

## **Letters of Recommendation**

EKU Registrar and University Counsel have developed a request form for faculty to use when students request letters of recommendation. This form can be located at [www.forms.eku.edu](http://www.forms.eku.edu)

## **Penalties for Violating FERPA Regulations**

The Family Policy Compliance Office reviews and investigates complaints of violations of FERPA. If that office finds that there has been a failure to comply with FERPA, it will notify the institution about the corrections that

need to be made to bring the institution into compliance. That office will establish a reasonable period of time for the institution to voluntarily accomplish the specified changes.

If the Secretary of Education finds, after this reasonable period of time, that an institution has failed to comply with FERPA and determines that compliance cannot be secured by any means, the Secretary can, among other options, direct that no Federal funds under his/her administrative control (financial aid, education grants, etc.) be made available to that institution.

## Special Tips for Faculty

### **Balancing student privacy and school safety** (*per the U.S. Department of Education, 2007*)

Regarding observations by school personnel that prompt concern for a student: *A school official (includes faculty) can, in general, share with a parent personal knowledge, or an observation about a behavior of a student, without a student's written consent.*

*Examples:*

**OK to share** with responsible parties these types of observations:

- ✓ You see two students get into a fight.
- ✓ You observe a student to be non-responsive in class and you are afraid he may have some major issues going on.
- ✓ A student tells you something directly, and you are concerned.

**Not OK to share:**

- ⊗ You know from personal knowledge that a student is flunking.
- ⊗ You cannot share this because that information comes from his academic record.
- ⊗ You have knowledge of this because of your access to his academic record.

### **To avoid violations of FERPA, please:**

- Protect a student's grades from being accessible by others.
- Do not discuss a student's academic record via **email** unless it is an email site with a reasonable level of **security and which authenticates the user's identity:**
  - EKU email, (XXXX@eku.edu)
  - Military email, (XXXX@us.mil.gov)
  - Another university email address, (XXXX@xxx.edu)
- Never release academic record information to a spouse or parent without **written permission** of the student.
- When in doubt refer the parent or spouse to the **Registrar or University Counsel.**
- Never provide anyone with lists of students enrolled in your classes for any purpose. Such requests must go through the University Attorney's Office or the Registrar's Office.
- Never provide anyone with student schedules, or assist anyone other than University employees in trying to locate a student on campus.

**Remember - it is everyone's responsibility to maintain the confidentiality of student records, whether you are faculty, staff, or student.**

**If you are unsure whether you should release information - then don't. Please call the Registrar's Office for any needed clarification.**