

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

Background

Among its several purposes, the Family Educational Rights and Privacy Act of 1974 (FERPA) was enacted to protect the privacy of students' education records, to establish the rights of students to inspect and review their education records, and to provide students with an opportunity to have inaccurate or misleading information in their education records corrected. FERPA also permits the disclosure by an institution without a student's prior consent of so-called directory information about that student. Students have the right to file complaints with the Department of Education's Family Policy Compliance Office concerning alleged failures by an institution to comply with FERPA. In accordance with the statute, as amended, and the FERPA regulations issued by the Department of Education, New York University ("NYU" or "the University") has adopted the following policies and procedures.

Applicability

"Student" includes any person with respect to whom the University maintains an education record, whether or not that person is currently in attendance. Persons who have not been in attendance are not "students" entitled to review their records. Thus, persons who have applied to and been admitted by the University, but who have not yet begun to attend classes, are not eligible to review their records. Also, students who, while attending one school or college of NYU, have applied to another NYU school or college, are not entitled to review records of the school or college to which they are applying until they have been accepted and are in attendance at that school or college.

Education Records

"Education records" available for review are defined as those records, files, documents, and other materials that contain information directly related to a student and that are maintained by the University or by a third party acting for the university. The form in which the information is maintained by the University does not matter; for example, handwritten, computerized or electronic files, audio or video tape, photographic images, film, etc., with such information are "education records". This includes communications and documents distributed or received by e-mail, or other similar University systems, which are retained in these systems, either by the sending or receiving party.

In general, records maintained by the University that are available for student review are located in the Registrar's office, Admissions, the student's academic department, career services (if student has a file there), Financial Aid (if student has applied for aid), school advisement and counseling offices, and the Bursar's office. Not all of these categories of records are maintained for any given student, and there may be others. Students have the right to review original documents from their files.

Under FERPA and its related regulations the following types of University records are not "education records" and are, therefore, not available for student review:

1. Personal notes or records (including computerized files) that are kept by an individual University employee solely in her or his possession, are used only as a personal memory aid, and are not accessible or revealed to others, except to a temporary substitute.

2. Records that relate to an individual who is employed by the University and that (a) are made and maintained in the normal course of business, (b) are not available for use for any other purpose, and (c) relate exclusively to the individual in that individual's capacity as an employee. (Note: This exception does not apply to records that relate to a student in attendance at the University who is employed as a result of their status as a student.)
3. Records created by NYU's Campus Safety Department at least in part for law enforcement purposes.
4. Medical and psychiatric records created, maintained, and used only in connection with the treatment of a student and that are not available to anyone other than the persons providing such treatment. Such records can be personally reviewed by a physician, psychologist, or other appropriate health professional of the student's choice. (Students who have received treatment from the University Health Center or from the University Counseling Services may contact those offices to inquire concerning access to patient information.)
5. Records that contain information relating to an individual who no longer is a student at the University and that are not directly related to the individual's attendance as a student, i.e., alumni records.
6. Grades or peer-graded papers before they are collected and recorded by an instructor.

Also, the University does not have to permit a student to review education records that are:

1. Financial records of the parents of a student.
2. Confidential letters and statements of recommendation placed in the education records of a student (a) prior to January 1, 1975, as long as they are used only for the purposes for which they were specifically intended; and (b) after January 1, 1975, if the student has waived access to such letters and recommendations and if such letters and recommendations relate to the student's admission to an educational institution (including admission to NYU), application for employment, or receipt of an honor or honorary recognition (see Section V, Waivers).

Access to Records

At NYU, FERPA is administered by University Registrar, Elizabeth Kienle-Granzo. The Office of the Registrar is located at 300 Cadman Plaza West, 7th Floor, Brooklyn, NY 11201. Except as noted below, requests to review records, for copies of the statute or its attendant regulations, or for additional information concerning FERPA, should be directed to the Office of the Registrar.

Requests for record reviews at the Graduate Division of the Stern School of Business, the College of Dentistry, the School of Law, the Grossman School of Medicine, the Long Island School of Medicine, NYU Abu Dhabi or NYU Shanghai should be directed to the following persons:

STERN (Graduate Division only)

David Gordon, Director of Student Records
44 West Fourth Street, Room 6-65

DENTISTRY

Leslie F. Smithey, Assistant Dean for Academic Affairs
345 East 24th Street, 10th Floor West

LAW

Michelle Kirkland, Assistant Dean of Academic Services and Registration

Furman Hall, 245 Sullivan Street, Room 474

GROSSMAN SCHOOL OF MEDICINE

Lori M. Andrade, Director, Office of Registration/Student Records
Medical Science Building, Suite G90

LONG ISLAND SCHOOL OF MEDICINE

Deirdre Apicello, Director of Medical Education, Registration and
Student Records
101 Mineola Blvd.
Mineola, NY

NYU ABU DHABI

Paul Revere, Registrar

NYU SHANGHAI

Winnie Wilson, Registrar

GLOBAL NETWORK SITES

Students should contact the appropriate FERPA Officer of their
home campus.

Current and former NYU students wishing to review records from schools other than those listed above must complete a record request form. Please email FERPA@nyu.edu for information on how to obtain and submit the record request form. The request should specify what records are to be inspected. Upon receipt of a request, the record review officer notifies the office(s) maintaining the requested record(s), arranges for the transmittal of the record(s), sets up an appointment for the student's review of such records, and supervises the review. Students are provided with this review opportunity within a reasonable time, not to exceed 45 days from the date of receipt of the request by the appropriate record review officer. If any material or document in the education record(s) of a student includes information on more than one student, the student may inspect and review or be informed of only that part of the material or document relating to the student. At the University's discretion, students may obtain duplicate copies other than NYU transcripts at a cost of 10 cents per page. Students will not be permitted to remove the original record(s) from the record review office. At the conclusion of the review the record(s) is returned to the office that maintains it.

If a student is physically unable to come to the appropriate record review office, and if this inability would effectively deny the student access to her or his records, the student may obtain a record request form by calling or writing to the appropriate record review officer. The student should then return the completed request form by mail to the record review officer. The officer will make special arrangements for the review. If applicable, in addition to duplication costs, there may also be a charge for the cost of mailing.

Waivers

A student may waive their right to access to confidential recommendations for any of the following: admission to an educational institution; employment; receipt of an honor or honorary recognition. Waiver forms are available from each Dean's Office and in Departmental Offices. The waiver must be in writing and must be signed by the student. If a student waives their right to access, the recommendations must be used solely for the purposes for which they were intended, and, if the student so requests, the University will give them the names of the individuals who made the recommendations. Recommendations mailed to third parties should include a copy of the signed waiver, so that the third party is aware that the student has waived access to the recommendation, and, hence, cannot obtain access to it from the third

party's records in the future. The University does not have the right to make the student's waiver a condition to the student's receipt of any service or benefit from the University. Waivers may be revoked by the student, but the revocation will not enable the student to gain access to confidential recommendations made while the waiver was in effect.

Amendment of Records

If a student believes that any of the education records relating to them contain information that is inaccurate, misleading, or in violation of their rights of privacy, the student may ask the University to correct or delete such information. The student may also ask that additional explanatory material be inserted in the record. Requests for amendment of a record or the addition of explanatory material should be submitted at the conclusion of the record review on form PL 93-3803, available from the appropriate record review officer. The reasons for the request should be set forth on the form and should clearly identify the part of the record the student wants changed and specify why it is inaccurate or misleading. There is no obligation on the part of the University to grant such a request. If the University declines to amend the records as requested by the student, it will so inform the student, and the student may request that explanatory material be inserted into the record or may request a hearing (see Section VII). The right to challenge the contents of an educational record may not be used to question substantive educational judgments that have been correctly recorded or to contest the assignment of a grade. Grades given in the course of study include written evaluations that reflect institutional judgment of the quality of a student's academic performance.

Hearings

If the University declines to amend a student's record as they request, the student has the right to a hearing. The hearing will be held within a reasonable time after the University receives the student's request for it, and the student will be notified of the date, time, location, and modality of the hearing. NYU will select a hearing officer in its sole discretion, who may be an official of the University, who does not have a direct interest in its outcome. At the hearing, the student may be assisted or represented by one or more individuals, including legal counsel, of the student's choice at the student's expense. Within a reasonable time following the hearing, the hearing officer will make their recommendation(s) in writing to the University's Director of Enrollment Management Compliance (or their designee). This recommendation, and the written decision of the University's Director of Enrollment Management Compliance or their designee on behalf of the University, will be based solely on the evidence presented at the hearing and will include a summary of that evidence and the reasons for the conclusions reached. If the decision of the University's Director of Enrollment Management Compliance or their designee is to amend the record, the record will be amended and the student will be given written notice of the amendment. If the decision of the University's Director of Enrollment Management Compliance or their designee is not to amend the record, the student will be informed that they have the right to place a written statement in the record, which will be kept in the file as long as the file itself is kept. The statement may comment on the contested portion of the file or say why the student disagrees with the decision of the University's Director of Enrollment Management Compliance or their designee, or do both. If the contested portion of the file is disclosed to anybody, the student's statement will also be disclosed.

Disclosure of Personally Identifiable Information

Prior to disclosing personally identifiable information from a student's education records, the University will obtain the student's signed and dated written consent to such disclosure, unless consent is not required by law. Where written consent is needed, the student's written consent must "specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made." In the case of certain offices, such as the career services or preprofessional committees, students can sign a blanket consent for disclosure of specified records to "appropriate third parties." Signed and dated written consent "may include a record and signature in electronic form that identifies and authenticates" the student as the source of the consent and indicates the student's "approval of the information contained in the electronic consent."

When a student gives their written consent to the disclosure of personally identifiable information from their records to persons outside the University, the student may request that the University provide him or her with a copy of any records thus disclosed, and the University will do so.

The purpose of the consent form is to permit the student to have some control over the disclosure of personally identifiable information in her or his education records. The fact that a student signs a consent form, whether specific or "blanket," does not, however, bind the University to make the student's records available to the third party or parties who have obtained the student's consent to their review of their files. The student's records are still the property of the University and, even if a consent has been signed, the University will exercise its discretion in each case by disclosing to the third party only such information, records, and files, if any, as the University deems appropriate in light of the reason that the third party is seeking access to the student's records. Because of this, all consents obtained directly from students by third parties must include a specification of the records to be disclosed, the purposes of the disclosure, and the person or groups of persons to whom disclosure may be made. The original signed consent must be provided to the University by the third party at the time the request for access is made. The University will retain the original consent. Records to which students are denied access because they are not "education records" usually will not be made available to an outside party. In addition, the third party generally will not be permitted to make copies of records to which they are granted access, even if the consent signed by the student explicitly gives permission for such copies to be made. If the student wishes the third party to have copies of documents in their file, or if there are other documents to which the third party has not been granted access by the University but which the student wishes the third party to have, the student may copy those records (see Section IV above) and provide such copies to the third party directly.

Prior written consent from the student is not needed for disclosure of directory information (see Section IX below) or for disclosure in certain other circumstances including:

1. to the student;
2. to school officials with legitimate educational interests;
 - Note: A school official with a legitimate educational interest may include a University employee acting within the scope of their employment; a person serving on the board of trustees; a student serving on an official committee, such as a disciplinary or grievance committee; and a duly appointed agent or representative of the University acting within the scope of

their appointment including but not limited to a volunteer or a contractor who performs an institutional service or function for the University and who is under the control of the school with respect to the use and maintenance of personally identifiable information from education records. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill their professional responsibilities for the University.

3. to accrediting, testing, and similar organizations;
4. to parents of dependent students (see Section XI below);
5. to certain federal, state, and local officials and authorities, in each case as specified in Subpart D of the FERPA Regulations, 34 C.F.R. Part 99;
6. in connection with financial aid for which the student has applied or received, under the conditions set forth in the FERPA Regulations.
7. to comply with a subpoena or judicial order, provided that the University attempts to notify the student of the order or subpoena before complying with it (unless, in the case of a Federal grand jury subpoena or other subpoena issued for a law enforcement purpose, the subpoena orders that such notification not be made), or to provide information to the Attorney General of the United States or to his designee, without notification to the student, in response to a court order issued in connection with the investigation or prosecution of terrorism crimes as specified in Title 18, U.S. Code, sections 2331 and 2332 (g) (5) (B). Permission is not needed for disclosure to a court when the University has initiated legal action against a parent or student or when necessary for the University to defend itself when a parent or student has initiated action against it.
8. in an emergency where there is an articulable and significant threat to the health or safety of a student or other individual, to appropriate parties whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. In such cases, the University will maintain a record of the articulable and significant threat which formed the basis for disclosure and the parties to whom the information was disclosed.
9. when forwarding education records to the officials of another institution (a) in which a student seeks or intends to enroll if that institution requests such records, or (b) if the student is enrolled in, or receiving services from, that institution while she or he is attending NYU, provided that the disclosure is for purposes related to the student's enrollment or transfer. The student's consent is not required for such disclosure, nor is any other notice of the transfer required, although a copy of each record so disclosed will be provided to the student if the student asks for it.
10. of the final results of any University disciplinary proceeding relating to a crime of violence or non-forcible sex offense allegedly perpetrated by a University student to an alleged victim of that crime or offense, regardless of whether or not it is concluded that a violation was committed. The consent of the alleged student perpetrator is not a condition to this disclosure.
11. of the final results of any University disciplinary proceeding reached on or after October 7, 1998 if it is determined that a student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the University's rules or policies with respect to the allegation. The names of other students, including the victim or witnesses, may not be disclosed without their prior written consent.
12. to the parent of a student regarding the student's violation of any Federal, State, or local law, or any rule or policy of the University, regarding the use or possession of alcohol or a controlled substance,

provided that the University has determined that the student has committed a disciplinary violation with respect to that use or possession and the student is under the age of 21 at the time of the disclosure.

13. of information concerning registered sex offenders, provided to the University under the Wetterling Act, including information made available under State sex offender registration notification programs.

The University will maintain a record of each request for and disclosure of personally identifiable information from the education records of a student to persons outside the University for as long as such records are maintained. The record will indicate the parties who have requested or obtained the personally identifiable information and the legitimate interest these parties had in requesting or obtaining the information. The student has the right to inspect and review this record of requests. The requirement to keep records of requests does not apply to: disclosures to the student; disclosures made pursuant to the written consent of the student; disclosures to school officials determined by the University to have legitimate educational interests; disclosures of directory information; or disclosures made in compliance with a grand jury or other law enforcement subpoena which orders that the existence or the contents of the subpoena or the information furnished not be disclosed.

In instances where disclosure of personally identifiable information from an education record to a third party is permitted (see above), the third party is subject to the requirements of the FERPA Regulations with respect to possible redisclosure of that information and the University must so inform the third party.

Directory Information

The University has designated the following student information as "directory information." Directory information may be disclosed for any purpose, at the discretion of the University, except as provided below.

Name, dates of attendance, NYU school or college, class, previous institution(s) attended, major field of study, full or part-time status, degree(s) conferred (including dates), honors and awards (including dean's list), past and present participation in officially recognized activities (including positions held and official statistics related to such participation and performance), e-mail address and NetID. [Important. See notes (1) and (2) below.]

(1) E-mail address and NetID are directory information for appropriate internal purposes only.

(2) In addition, under federal law, physical mailing address, electronic mailing address, telephone listings, and age are also considered directory information for military recruitment purposes.

Currently enrolled students may refuse to permit disclosure of this information. To do so, a student enrolled in any school other than the College of Dentistry, Grossman School of Medicine, Long Island School of Medicine, School of Law, or Stern School of Business - Graduate Division should complete a form requesting nondisclosure at the StudentLink Center, 383 Lafayette Street, and submit it to that office. A hold will be placed on the release of directory information filed with the University Registrar, which will remain in effect until the student files a written request to remove it. Students in the College of Dentistry, School of Law, Grossman School of Medicine, Long Island School of Medicine or Stern School of Business - Graduate Division should complete the nondisclosure form available in the Recording Office of the school in which they are enrolled. For students in these schools, a properly filed non-disclosure form will remain in effect until revoked in writing.

A request not to disclose directory information applies to the entire category of such information and cannot be selective with regard to specific items defined as directory information. Similarly, a request not to disclose directory information applies to all individuals and organizations, subject to the exceptions stated in Section VIII above, and cannot be selective with regard to specific individuals or organizations.

A student may not use the withholding of directory information to prevent the University from disclosing or requiring the student to disclose their name, identifier, or institutional e-mail address in a class in which the student is enrolled.

Students should consider very carefully the effect of a decision to withhold directory information. If that decision is made, any requests during that academic year for such information from non-University persons or organizations will be refused (subject to the exceptions stated in Section VIII above or unless the student has subsequently removed the hold by notifying the Registrar or appropriate Recording Office in writing). If a student does not specifically request the withholding of directory information by filing the appropriate University form, as indicated above, the University assumes that they approve of the disclosure of such information. The University disclaims any and all liability for inadvertent disclosure of directory information designated to be withheld.

Review by Government Agencies

Authorized representatives of government agencies may occasionally ask to see a student's education records. Such requests are usually made when a student or former student has applied for a government job. The government agent should be referred to the appropriate record review officer, as indicated in Section IV above. Generally, the University will handle such requests in the same manner as other requests for access to student records by third parties (see Section VIII), provided that the government agent shows official identification and provides a signed release from the student, a copy of which will be retained by the University.

Government agents with subpoenas should be referred to the Office of General Counsel. Under the FERPA regulations, the University is required to make a reasonable attempt to notify the student prior to complying with the subpoena unless, in the case of a subpoena issued for law enforcement purposes, the subpoena orders that such notification not be made. (See Section VIII above.)

Requests from Parents

Occasionally, a parent will request information from a student's education records or a copy of the student's transcript. Under FERPA, institutions are not required to disclose such information to the student's parent, but may do so if: (a) there is written consent to the disclosure from the student, or (b) the parent requests the information in writing and provides evidence that the student is their dependent under the Internal Revenue Code of 1986 (See Section VIII above.), or (c) the student has violated a Federal, State, or local law or any rule or policy of the University regarding the use or possession of alcohol or a controlled substance, provided that the University has determined that the student has committed a disciplinary violation with respect to that use or possession and the student is under the age of 21 at the time of the disclosure.

If the procedure indicated under (b) is followed, the University's practice is to ask the parent to establish dependency by providing a copy of her or his latest federal income tax return. Confidential information on the return may be expunged, provided that the information that remains is sufficient for the University to ascertain that the parent has claimed the

student as a dependent. Further, it is also the practice of the University (except in a health or safety emergency) to inform the student of such a request and of the information requested before deciding whether to provide the requested information to the parent. "Parent" is defined by FERPA as "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian."

The University allows a student to provide consent to access advisor information, class schedule, financial aid, grades and other information through the Albert mobile website (<https://m.albert.nyu.edu/>) and for tuition and housing bills through eSuite (https://secure.touchnet.com/C21125_tsa/web/login.jsp).

Annual Notice

The University will inform students of these Guidelines and of their rights under FERPA and the Department of Education's FERPA regulations by placing a notice about them on the website of the Registrar at <http://www.nyu.edu/registrar/university-policies/ferpa.html> (<http://www.nyu.edu/students/student-information-and-resources/registration-records-and-graduation/forms-policies-procedures/FERPA.html>). The University will separately provide students with electronic correspondence regarding their FERPA rights on an annual basis. The Guidelines are also available through the Student Affairs link on the University Policies and guidelines page of the NYU website.

For additional information or a copy of the statute, the FERPA regulations, or these Guidelines, please contact Elizabeth Kienle-Granzo, University Registrar at FERPA@nyu.edu.