

FERPA Basics for Millikin University Employees

What is FERPA?

Family Educational Rights and Privacy Act, FERPA, is a federal law designed to protect the privacy of education records. It also provides guidelines for appropriately using and releasing student education records.

The student is the owner of his or her education record and Millikin is the custodian of that record. The student has the right to control to whom his or her education record is released.

What are the basic rights of the student?

- Be notified of their FERPA rights at least annually
- Right to *inspect* and *review* their records (copies are not provided and phones are not allowed to be present)
- Right to request an amendment to an incorrect record
- Right to consent to disclosure of personally identifiable information (PII)
- Right to file a complaint with the Department of Education

Who is protected under FERPA?

Students at a postsecondary institution, regardless of their age or status in regard to parental dependency.

When do FERPA rights begin?

FERPA rights begin on the first day the student begins attending class. Students who have applied but have not attended the institution do not have rights under FERPA.

What is an education record?

Any record from which a student can be personally identified AND which is maintained by the institution regardless of its form - handwritten, print, disk, e-mail, files, graded materials, class lists, individual student class schedules, financial aid records, comments added to student information systems (Banner), databases (Hobsons), or tracking systems (individual spreadsheets or reports kept by an employee of the University).

Students have the right to see everything in their education record with the exception of financial records of parents and confidential letters of recommendation if they waived their right of access (which cannot be required).

There is no records retention policy under FERPA. It does not state what records you must make or how long you must keep them. You cannot destroy records once they are requested and information regarding other students that might be in the file must be redacted.

What is not an education record?

- Law enforcement records created by a law enforcement agency for that purpose.
- Employment records (unless the employment is based on student status). So, the employment records of student employees (work-study, wages, and graduate teaching associates) are part of their education records.
- Medical/psychological treatment records (from a health or counseling center).
- Alumni records (those created after the student graduated or left the institution)

What is directory information?

Directory information is public information that may be released without written consent of the student. Every student must be given the opportunity to refuse to let the institution release information designated as directory information by completing a Request to Prevent Disclosure of Directory Information Form. This process is often referred to as a "non-disclosure," "opt out," or "no release." Everyone within the institution must abide by a student's request that no information be released about the student.

Millikin University has designated the following as directory information:

- Name
- Address
- Telephone Number
- E-mail Address
- Eligibility for academic and co-curricular honors societies, organizations, or awards
- Photograph
- Major Field of Study
- Grade Level
- Degrees, Honors, and Awards Received
- Participation in Officially Recognized Activities and Sports
- Weight and Height of Members of Athletic Teams

Who may have access to an education record?

- The student
- Any outside party that has the student's written consent (Use the Student Request to Share Information Form)
- School officials with a legitimate educational interest
- A person in response to a lawfully issued subpoena or court order

Parents, spouses, same-sex domestic partners, attorneys, ombudsmen, etc. are all considered third parties under FERPA. You need a Student Request to Share Information Form from the student to release information to them.

What is a school official?

A person employed by Millikin University in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); a person serving on the board of trustees; or a student serving on an official committee, such as a disciplinary or grievance committee. A school official may include a volunteer or contractor outside of Millikin University who performs an institutional service of function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, or collection agent or student volunteering to assist another school official in performing his or her tasks.

What is legitimate educational interest?

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 responsibilities for Millikin University. This is not "blanket" access to all data or all students.

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. Additional disclosures may be made by the office charged with maintaining the student educational record. Some examples of the exceptions to the release requirement include:

- Disclosure of directory information provided the student has not requested no release.
- 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 for a health/safety emergency regarding the student.
- Disciplinary information:
 - Disclosure to the alleged victim of a crime of violence, such as information from disciplinary proceedings.
 - *Only* when found in violation, and *only* for crimes of violence — release of name, sanction and outcome can be made to anyone.
- Disclosure to parents of any student under the age of 21, a violation of federal, state, local or institutional laws/regulations related to substance abuse.

FERPA rights at a postsecondary institution end with a student's death. Students have a formal right to file a complaint with the Department of Education.

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.

Web-based tools to support classes:

Courses supported by class websites and/or discussion groups must take extra precautions to not inadvertently release non-directory 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. (Moodle is compliant)

Students opting for no release:

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.

Checklist for requests for access to or disclosure of information from education records:

- Is the information in question an education record under FERPA?
 - Yes. Don't disclose.
- Is the information personally identifiable?
 - Yes. Don't disclose.
- Is the information considered beyond directory information?
 - Yes. Don't disclose.
- Did the student request a directory hold when he/she had the opportunity to do so?
 - Yes. Don't disclose.
- Does the disclosure require signed consent?
 - Yes. Don't disclose.

These general guidelines are not intended to be legal advice. This document provides only a summary of FERPA. For further information or clarification, please contact the University Registrar, the University's FERPA representative.

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Additional Resources:

FERPA Website:

www.ed.gov/print/policy/gen/guid/fpco/ferpa/

FERPA Email: FERPA@ed.gov