

# FERPA 101

## STUDENT RECORDS: INSTITUTIONAL RESPONSIBILITY AND STUDENT RIGHTS

What Every University Employee Should Know

THE UNIVERSITY OF ALABAMA

# What is FERPA?

- Family Educational Rights and Privacy Act
- Grants students certain rights concerning their educational record
  1. Access (inspect and review education record)
  2. Confidentiality (control over disclosure of record)
  3. Amend (seek to amend incorrect record)

# The Basics

- Student educational records are confidential and may generally **NOT BE** released without written consent of the student
- Faculty/staff can only have access to student information for legitimate use in the completion of job responsibilities
  - Need-to-Know

# The Basics

- Institution must notify students of FERPA policy annually
- Failure to comply with FERPA can result in the loss of all federal funding
- Applies to students who:
  - Are 18           OR
  - Attend a postsecondary institution   OR
  - Are **enrolled\*** (DL, Co-op)

# The Basics

- You have a responsibility to protect educational records in your possession
- Student information should only be kept as long as it is valid and useful
  - Undergraduate files – 5 years
  - Graduate files – 10 years
  - Otherwise destroy responsibly
    - Shred
    - Delete emails once no longer needed

# What is an Educational Record?

- Directly related to a student
- Maintained by the educational institution
- Includes – but not limited to:
  - Grades
  - Transcripts
  - Class Lists
  - Student Schedule
  - Financial Records
  - Race/Gender
  - CWID
  - SSN
  - Student Employment & Payroll
  - Discipline Files
  - Enrollment Records

# What is an Educational Record?

- Does not include:
  - Records in 'sole possession' of the maker used as a memory aid
    - Seating chart
  - Medical/psychological records used solely in connection with treating the student
  - UAPD records
  - Records related to regular employment

# Right to Access

- Must make request **in writing**
- Assemble data and make available for viewing within 45 days
- Review must take place in the presence of a University official
- Does **NOT** mean student can make a copy of their exam, letters in their file, etc.



# No Right to Access

- Financial information submitted by parents
- Records with information about more than one student
  - University must first redact information about other student
- Confidential letters and statements of recommendation if the student has waived his/her right to review

# Right to Confidentiality

## General Rule:

Obtain *written* consent from students *before* disclosing any personally identifiable information (non-directory) from their education records to a third party.

**NO** information can be released for students with a directory/confidentiality hold.

# Consent **NOT** Necessary

1. Directory information—**UNLESS** the student has placed a directory hold on their records
  - Name
  - UA Email Address\*
  - Major Field of Study
  - Dates of Attendance
  - Degrees/awards received
  - Participation in officially-recognized activities/sports
  - Weight/height of members of athletic teams
  - Most recent previous school attended by the student

\*Permanent/Home address may only be released for University recognized academic honor societies/organizations.

# Consent **NOT** Necessary

## 2. School officials with legitimate educational interest

- Including faculty, administration, clerical and professional employees, and others who need student record information for the effective functioning of their office or position

CAUTION: Disclosure to an instructor with a legitimate educational interest does **NOT** authorize disclosure of that information to a third party

# Consent **NOT** Necessary

## 3. OTHERS

- Subpoenas or court orders
- To enforce terms and conditions of financial aid
- Notification of final results of disciplinary actions taken against student who commits crimes of violence or non-forcible sex offense
- Notification to parents of students under 21 who violate university rules or policies governing the possession or use of alcohol or controlled substance
- To appropriate officials if information necessary to protect health or safety of student or other individuals

# When Records May Be Released to Parents

1. Student was claimed as a dependent on most recent Federal Income Tax form
  - Releasing records to parents **without** PROOF of dependency is a violation of FERPA
  - UA can have student verify if he/she has been claimed by parent(s) as a dependent
  - If discrepancy exists, parent(s) can then be asked to send copy of tax form

It is UA's policy to not release information even if a tax return is presented.

# When Records May Be Released to Parents

## 2. Student provides written consent

- Adequate written consent must:
  - Specify the precise records to be released
  - Specify the purpose of the disclosure
  - Precisely identify to whom the disclosure may be made
  - Be signed and dated by the student

Consent by **financially independent** student to one parent is not consent to the other parent.

# When Records May Be Released to Parents

## 3. Student violates University drug and alcohol policies

- May disclose information regarding the violation of any federal, state, or local law or any rule or policy of the institution governing the use or possession of alcohol or a controlled substance, IF:
  - The student is under the age of 21 (20 or younger) AND
  - The University determines the student has committed a disciplinary violation with respect to such use or possession



# When Records May Be Released to Parents

## 4. Student disciplined for crime of violence or non-forcible sex offense

- The **ONLY** information the University may reveal is:
  - Name of the student being disciplined
  - Description of the violation committed
  - Any sanction imposed by the University
  - Names of any other students, (victims, witnesses) **BUT ONLY** if the other students consent in writing to the release of their names.

Disclosure should clarify that the student has been sanctioned through the disciplinary system, and not charged with or found guilty of any criminal offense.

# When Records May Be Released to Parents

## 5. University receives a subpoena

- Must be lawfully issued and served pursuant to state and federal rules of civil procedure
- Must notify the student prior to release of the records to allow the student to take steps to quash the subpoena or obtain a protective order

# When Records May Be Released to Parents

## 5. University receives a subpoena (con't)

- Can only release records described in the subpoena (a request for academic transcripts does not authorize the release of financial aid records)
- No need to notify if issued by a federal grand jury or law enforcement agency and the subpoena clearly instructs the University “to not disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena”

# When Records May Be Released to Parents

6. Disclosure to parents (or others) is necessary to protect the health or safety of the student or other individuals

- Factors that must be considered before releasing non-directory information in a crisis or emergency situation include:
  - The severity of the threat to those involved
  - The need for the information
  - The time required to deal with the emergency
  - The ability of the parties to whom the information is given to deal with the emergency

# Proxy

Proxy access allows students to grant access to portions of their student record.

- Student creates a proxy user account in myBama
- Student determines which access is granted
- Student grants access for a specified period of time

Proxy access **DOES NOT** replace the need for a FERPA release and **DOES NOT** allow university personnel to discuss or release non-directory information.



# FERPA Release

Students are able to sign an electronic FERPA release through their myBama account. A FERPA release **MUST** be on file before university personnel can discuss and/or release non-directory data relating to the student's educational record.



THE UNIVERSITY OF  
ALABAMA<sup>®</sup>