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The goal of **FERPA** and the University’s system-wide student records policy is to ensure that the privacy of student information and records is maintained, while according students the right of access to their own records.

In the absence of any specific provisions in law or policy, the **University is guided by two principles:**

1) the **privacy** of an individual is given great weight; and

2) the information in a student’s file should be **disclosed to the student on request**.
The University’s obligations under FERPA are set forth in the statute, regulations and UC’s system-wide policy. The system-wide policy is more protective than FERPA and applies across the board to all UC campuses.

- Information about FERPA, including the statute and regulations, UC’s system-wide policy and a basic overview of FERPA as it applies to the University, is available on OGC’s website at:

FERPA gives students the right to:

- **Control disclosure** of their “educational records”
- **Inspect and review** their “education records”
- **Seek amendments** to their “educational records”
- **Receive annual notification** of their FERPA rights
- **File complaints** with DOE for failure of an institution to comply with FERPA.
“Education record” is defined to include those records that are:

1) Directly related to a student; and

2) Maintained by the University or by a party acting for the University.

This definition is not limited to academic records and includes housing, disciplinary, financial aid and all other records directly related to a student, unless expressly carved out pursuant to specific exceptions. Records include, among other things, handwritten records, electronic records, video, recordings and photographs.

FERPA protects both the record AND the personally identifiable information contained in the record.
Personally identifiable information includes, but is not limited to:

- Student’s name
- Name of family members
- Student’s address
- Personal identifiers like social security numbers
- Indirect identifiers like date and place of birth, mother’s maiden name
- Other information which alone, or in combination with other information, would allow a reasonable person to identify the student
“Directory information” generally may be disclosed.

Directory information is defined as information contained in an education record of a student that generally would not be considered harmful or an invasion of privacy if disclosed, and may include the student’s name, telephone number, date of birth and field of study, among other things.

To take advantage of this exception, the campus must create a list of directory information and give students notice of the list and an opportunity to “opt out.”

Students may not prevent authorized disclosure (e.g., under the legitimate educational interest exception) by opting out.
FERPA applies only to recorded information: FERPA does not apply to information gained based on personal knowledge or observation, if the information is not recorded.

FERPA does not require disclosure other than to the student: Disclosure of records pursuant to the exceptions to FERPA is permissive, not mandatory. The University is never required to disclose records except pursuant to a subpoena or court order.

UC ‘s policy is more protective than FERPA: UC’s system-wide policy does not permit disclosures in some situations where FERPA would allow it. Notably, FERPA would permit disclosure to parents of financially dependent students but UC’s system-wide policy does not permit it.
Current students: FERPA rights apply as soon as a student enrolls or registers with the University. Their rights under FERPA are retroactive and cover educational records created before they enrolled or registered.

Student Employees: Student employment records are covered unless the employment is not related to the fact the individual is a student. In most situations (e.g. work-study, work as a TA or research assistant) employment will be related to the fact that the individual is a student. An exception might be where an employee enrolls as a student and maintains their position as a University employee. Their employment records would not be educational records.
- **Applicants**: Applicant records are **not** included in the definition of educational records but if the individual enrolls, their records retroactively become educational records.

- **Alumni**: Alumni records that are created after the individual is no longer a student are **not** educational records unless they are directly related to the individual’s attendance as a student.

**Students under 18 are treated as adults** for purposes of FERPA and have the same rights as any other student once they enroll or register at the University.
Key Exceptions

- **Sole possession records**
- **Campus police records**, created and maintained solely for law enforcement purposes
- Employment **records** not related to the fact the employee is a student
- **Treatment Records** (are not educational records but are subject to FERPA’s prohibition against release without consent; there is no student right to inspection; these records are likely subject to other privacy protections)
- **Applicant records**
- **Alumni records**
- **Grades on peer-graded papers** before they are collected or recorded
Permissible Disclosures

- Information is not personally identifiable
- Directory information
- Student consents to disclosure
- Disclosure to the student
- Statutory exceptions (e.g., emergency, financial aid, subpoena)
- Disclosure to University officials with “legitimate educational interest”
- Certain audits and evaluations, disclosure to accrediting institutions and for certain research if use of the information is strictly limited and the record is destroyed when no longer needed

4/22/13
Family Educational Rights Act of 1974 (FERPA)
Sharing of information on campus: Many people assume that FERPA prevents them from sharing student information with other University employees on campus. The “legitimate educational use” exception allows information to be shared for purposes of conducting University business. This exception is not limited to educational functions, and includes any legitimate University function conducted by the campus, such as library operations, parking, business services, administration and law enforcement. The head of the department holding the information is responsible for determining if the stated need serves a legitimate purpose; however, any disputes regarding information sharing would ultimately be resolved by the appropriate Vice-Chancellor or the Provost or Chancellor.

FERPA is not intended to prevent legitimate information sharing by University personnel on campus.
Sharing of Information with other campuses: In contrast, while not required under FERPA, the University treats its campuses as separate entities and under University policy information can only be shared between campuses in limited circumstances.
Response to subpoenas: Educational records must be produced in response to a valid subpoena or court order. The University must make a **reasonable effort to notify** the student in advance of the disclosure, unless the subpoena orders non-disclosure, to allow the student to take action to quash the subpoena. The University is not obligated to take action to protect the record if the student does not act. The University normally provides at least 10 days notice, but shorter notice is acceptable if steps are taken to ensure the student actually receives the notice (such as delivery by email).
Emergency situations: Disclosure is allowed to appropriate parties, including parents, in connection with a health and safety emergency of the student or other individuals, but the threat of harm must be “articulable and significant”. The University must create a record of the basis for the disclosure. The University may take the totality of the circumstances into account in making its decision. Information may be disclosed to any person with the ability to assist, including parents, law enforcement agencies, campus or University personnel, next-of-kin, emergency contacts, spouses or partners. It should be noted that FERPA only applies to educational records and does not prohibit disclosure of information gained by personal observation.
Knowing how to comply with FERPA and other privacy laws is important to maintaining an efficient and effective University workplace. Maintaining everyone’s privacy is important and should be respected out of common courtesy to our students and employees. But privacy laws do not need to undermine legitimate University operations by stemming the flow of needed information. In almost all instances, where there is a legitimate campus need for information, that information can be provided in compliance with FERPA.