



WINTHROP
UNIVERSITY

FERPA

Family Educational Rights and Privacy Act
of 1974

(also known as the Buckley Amendment)

**Office of Records and
Registration**



Learning Outcomes

1. Understand the basics rights under FERPA
2. Learn about key FERPA terms and their importance in applying FERPA.
3. Understand the difference between directory and non-directory information.
4. Apply knowledge correctly to various scenarios.

What is FERPA?

A Federal Law designed to protect the privacy of education records.

Three basic FERPA rights:

- 1. Students have a right to inspect & review their educational record.**
 - a) Inspect and review within 45 days of the student's request.
 - b) They do NOT have the right under FERPA to inspect:
 - financial records of parents;
 - letters of recommendation for which they have waived their right of access;
 - information about other students

Three basic FERPA rights, continued:

2. **Students have a right to request an amendment to their record** to address perceived inaccurate and misleading data.
 - Right to a hearing if school refuses to amend record.
 - Right to insert a statement.
 - NOT a right to dispute unsatisfactory grade by an instructor.



Three basic FERPA rights, continued:

3. **Students have a right to have some amount of control over the disclosure of information from their educational record.**
 - a) Student's written permission is required before releasing information from their record.
 - b) Consent must:
 - Specify the records that may be disclosed (e.g. grades, health, advising, disciplinary)
 - State the purpose of the disclosure
 - Identify the entity to whom a disclosure may be made



KEY FERPA TERMS

- **eligible student**
- **education record**
- **directory information**
- **personally identifiable data**
- **school official**

“ELIGIBLE STUDENT”

An “**eligible student**” is a student who is or has been enrolled at WU.

The Registrar defines “enrolled” as “registered for classes” (and therefore has FERPA rights)

Applicants for admission have limited FERPA rights.

- Records for freshman applicants can be discussed with parents.
- However, transcripts from other institutions are covered.



Eligible Student continued

FERPA is in effect - regardless of age.

- ⦿ Once a student enrolls, FERPA rights revert from parent to student.
- ⦿ High school students taking college classes have FERPA rights.
- ⦿ However, the high school & postsecondary institution may exchange information on student without student's written consent.
- ⦿ Parental access would be gained through the high school.

"EDUCATIONAL RECORD"

Educational records are:

1. Any record or materials which contain information where a student can be personally identified AND
2. Are maintained by any office, employee, or agent of the university in any form:
 - *Electronic - an email; recorded Zoom, BlackBoard, Microsoft Teams class meeting; internet, other electronic data*
 - *Printed or Handwritten notes*
 - *Photos that contain personally identifiable information contained in a record (such as class attendance.)*
 - *Graded tests, papers, assignments, instructors' grade books (whether paper or electronic.)*



Exceptions to “educational record”:

- A. Sole Possession Notes:** (aka Sole Source Notes)
- Only kept in the possession of the person who created them.
 - Notes an instructor or staff member keeps -
 - no one else was involved when creating the notes.
 - Once shared with someone, or placed in an area where they may be accessed by others, they become educational records – and subject to FERPA and to subpoena.



MORE EXCEPTIONS TO “EDUCATIONAL RECORD”:

B. Law Enforcement Records.

- Kept only for law enforcement purposes.
- Once shared with WU administrators/staff/faculty (e.g. submitted for a committee to review) they become part of student’s educational record.

C. Alumni Records:

- Only that information which is acquired after student has left the university. (For example, where the alum is now employed.)
- All non-directory information gathered during time the alum was a student remains protected by FERPA as part of the educational record.



More exceptions, cont.

D. Employee Records:

- Unless the employment is contingent upon school attendance, (e.g. GA records, work study records) then human resource records are not subject to FERPA.



A note about Medical Treatment Records...

- Records created by the Center for Student Wellness *are considered educational records* because they contain information where a student can be personally identified AND are maintained by an office of the university.
- While HIPAA (Health Insurance Portability and Accountability Act) also maintains privacy of health information, under FERPA, treatment records, by definition, are not available to anyone other than professionals providing treatment to the student, or to physicians or other appropriate professionals of the student's choice. Once the treatment records no longer meet the criteria for being treatment records, they become "education records" to which the eligible student has the right to inspect and review.



Directory Information

Generally considered not to be harmful or an invasion of privacy if disclosed

Winthrop defines directory information as:

- 1. Student's name**
- 2. Address (*but never residence hall address*)**
- 3. Telephone number**
- 4. Email address**
- 5. Place of birth**
- 6. Major and minor fields of study**
- 7. Participation in officially recognized activities and sports**
- 8. Height/weight of athletic team members**
- 9. Date of admission**
- 10. Dates of attendance (enrollment verification-term dates)**
- 11. Classification (Freshman, etc.)**
- 12. Degrees and awards received**
- 13. Eligibility for honor societies**
- 14. Most recent educational institution attended**
- 15. Photographic, video or electronic images of students**



FERPA rules regarding directory information:

- **Students must be notified of the items of directory information.** (This info is in the catalog and on our website, and students are notified by email each semester.)
- **If a data element isn't explicitly defined as directory information, it is not directory information.**
 - It cannot be released **without** the student's written permission unless the release can be justified under one of the exceptions in FERPA (*e.g. school officials, regarding financial aid application, subpoena*).



DIRECTORY INFORMATION RULES.....

- Students must be given the opportunity to request that directory information NOT be released.
- CONFIDENTIALITY is requested, in writing, at the Office of Records and Registration and once in effect remains so until revoked by the student, in writing.
- All or nothing – can't pick and choose directory items.
- Coded in the Banner student information system. Displays in Wingspan on class lists and in Degreeworks.
- Means we can't tell anyone outside the university that a student is attending, or graduated, or was on the Dean's List.



Directory Information Rules.....

If an outside party asks about a student and you see the Confidentiality note in Banner, DegreeWorks or Wingspan:

- Suggested response:
 - *“I have no information related to that individual.”*
- Do not even confirm they are a student.
 - Could be a situation involving personal safety.



Confidential notation in Banner

This will appear on every screen in Banner:

The screenshot shows the Banner system interface. At the top, there is a navigation bar with a search icon, a 'PROD' environment indicator, and a user profile for 'Ms Gina G Jones' with a 'Sign Out' button. Below this is a blue header for 'General Person Identification SPAIDEN 9.3.3 (PROD)' with 'ADD', 'RETRIEVE', 'RELATED', and 'TOOLS' buttons. The main content area shows an 'ID: W3' field. A yellow warning banner is displayed on the right side, containing a warning icon and the text: 'Banner Warning: Information about this person is confidential.' An 'OK' button is located at the bottom right of the warning banner.

This is a close-up screenshot of the Banner interface. It shows the blue header 'General Person Identification SPAIDEN 9.3.3 (PROD)'. Below the header, the text 'ID: W3' and 'Du' is visible. To the right of 'Du', the word 'Confidential' is displayed and circled in red. Below this, there are tabs for 'Current Identification', 'Alternate Identification', 'Address', 'Telephone', and 'Biograph'. The 'Current Identification' tab is selected, and the text 'IDENTIFICATION' is visible below it.

Confidential Notation in Wingspan:

- The word “Confidential” will appear by the student’s name on a class list.

Summary Class List

Record Number	Student Name
1	Christina G.
2	Anna M.
3	Janad F.
4	Andy M.
5	Quel
6	Thomas J.
7	Rochy P.
8	Ant A.
9	Armel B.
10	Sam C. Confidential
11	Lucas, Kelly ON C.



Confidential notation in DegreeWorks

Student ID
W [REDACTED] ×

Name
[REDACTED]

Degree
Bachelor of Professional Studies

[Advanced search](#)

Level Undergraduate **Classification** Senior **College** College of Arts and Sciences **Major** Professional Studies **Concentration** Organizational Operations
Earned Hours 121 **Advisors** Scott Amundsen **Confidential** Do NOT release student info



By law, these are never directory information:

- **Social Security Number**
- **Race/ethnicity**
- **Gender**
- **Grades**
- **GPA**
- **Country of citizenship/nationality**
- **Religion**
- **Academic Standing**

*The above are always subject to
FERPA protection!*



“PERSONALLY IDENTIFIABLE DATA”

1. A data element unique to that individual such as Social Security Number, WU student ID number, or fingerprints.
2. Direct identifiers: name of the student, the student’s parent, or other family members.
3. Indirect identifiers: date of birth, place of birth, or mother’s maiden name.
4. The student’s campus (residence hall) or home address.
5. A list of personal characteristics or other information which alone or in combination would make the student’s identity easily traceable.

While some of these may be directory information, you cannot release any items that if disclosed alone, or together with another data element, would allow “a reasonable person to reasonably identify” an individual... per Jan.2009 US DOE FERPA clarifications.



Review: basic student FERPA rights

1. Right to inspect and review everything in their record. (Students have 24-hour access to grades through Wingspan/DegreeWorks.)
2. Right to request changes to their educational records and to appeal a decision of the university to not make requested changes.
3. Right of some control over the disclosure of information from their education record.
 - *Without a student's written permission, it is a violation of FERPA to **release non-directory information to third parties** (unless it's one of the "exceptions").*
 - *Parents are a "third party".*

WHAT ABOUT PARENTS?

1. Right of access and control of information transfers from the parent to the student when a student **enrolls at a postsecondary institution** (regardless of age).
2. Parents may obtain non-directory information, (grades, etc.), by having their student submit a signed written consent to the Registrar.
3. Parents may obtain **non-directory information** (grades, etc.) after it has been determined that their child is legally their dependent, (*IRS Tax form*), **at the discretion of the institution** - *not required to do so* (“*may*” vs “*must*”).
 - *WU allows parent access to their student’s information under this caveat.*



FERPA exceptions to written consent rule:

Written consent to release non-directory information is NOT required from the student when it involves:

1. A “school official” with a **legitimate educational interest** or education related “need to know”.
2. Other institutions where student has **applied for admission**.
3. U.S. Department of Education, or state/local education authorities (*e.g. SC Commission of Higher Ed*).
4. Student’s request for **financial aid**, *e.g. sending data to National Student Clearinghouse*.
5. Protecting **the health or safety of the student or others**.
 - *In an emergency, when there is an “articulable and significant threat” to the health or safety of a student or other individuals.*



WHEN WRITTEN PERMISSION IS NOT REQUIRED CONTINUED....

6. State/local officials in conjunction with **legislative requirements.**
7. Complying with a judicial order or lawfully issued **subpoena.**
8. Final results of a disciplinary proceeding conducted by the institution with respect to alleged crime/offense. These may be released to the victim of that crime (*Clery Act*).
9. Notifying parents of a student < 21 yrs., in connection with use or possession of alcohol or controlled substance in violation of law or policy.



Who is a “school official?”

A **school official** can be:

- A University administrator, faculty, or support staff, (including law enforcement and health staff personnel).
- A member of the Board of Trustees.
- A company or individual contracted by college to perform a special task such as the attorney, auditor, or collection agency.
- A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.



“LEGITIMATE EDUCATIONAL INTEREST” AT WINTHROP

- Definition: A school official has a legitimate educational interest if the official needs to review an education record in order to their professional responsibility.
- FERPA dictates that a school official must have a “legitimate educational interest” or valid need to know the information before accessing an educational record.

Being curious about famous alumni, friends, or relatives is not a valid need to know!

FERPA expectations of WU:



1. Expectation of security—that information in education records will be kept confidential.
2. Expectation that institutions use “reasonable methods” to limit access of “school officials” to only those records where there is a legitimate educational interest. We require employees to sign a security policy which outlines appropriate use and consequences for inappropriate use.
3. Expectation of tracking access to records – school is responsible for ensuring that it is taking appropriate measures to restrict and record access and disclosures.
4. Expectation of usage of “reasonable methods” to authenticate identity of parents, students, school officials, etc. to whom educational records are disclosed. Security questions or other information known or possessed by the student would be considered reasonable.



WU FERPA RESPONSIBILITIES:

1. Access to Banner, or any other repository of student records where you work, does NOT authorize unrestricted use of that student data.
2. Records should be used only in context of official business.
3. Curiosity does NOT qualify as legal right to know.
4. When in doubt, do not release information, directory or otherwise. Feel free to contact the Office of Records and Registration.
5. Oops!- an inappropriate release of information - could harm a student if they have a need for confidentiality or result in a violation of federal law and such complaints trigger federal FERPA audits.



Notes for Faculty & Staff:

GRADES:

- ❑ Protect a student's grades from being accessible by others. Never post or leave in pick-up boxes with public access, pass around the room, or send mass emails referencing grades.

RECOMMENDATIONS:

- ❑ Any recommendation that references grades or academic standing in a class must have the student's written release. There is a form on the Rec and Reg website which can be used for this purpose.

EMAIL:

- ❑ Do not discuss a student's academic record via email unless it is a Winthrop-issued email

STUDENT SPOUSES:

- ❑ Never release academic record information to a spouse without written permission of the student or power of attorney. Spouses have no rights to information.

When in doubt, refer the parent/guardian or spouse to the Registrar or Assistant Provost for Academic Affairs.



Forms Online

▸ Undergraduate Readmission

▸ S/U Form

▸ Petition Forms

▸ Registration Forms (Audit, schedule change, transfer credit, change curriculum)

▾ Student Records (Residency application, record release forms, privacy form, dependent student status)

[Permission to Release Student Records *](#)

[Privacy Form](#) *(To request that directory information not be released to outside parties)

[Replacement Diploma Order *](#)

[Request for Records*](#)

[Citizenship Status Verification](#)

[Consent For Release](#) (Used to allow faculty/staff to give recommendations for scholarships, job applications, and admission to graduate schools)

[Verification of Dependent Student Status *](#)

[SC Residency Application](#)



Balancing Student Privacy and School Safety.....the Patriot Act of 2001

- Permits educational institutions to disclose without the consent or knowledge of the student personally identifiable information from the student's education records to the Attorney General of the United States in response to an *ex parte* order in connection with the investigation or prosecution of terrorism crimes.
- *Ex parte* order is an order issued by a court of competent jurisdiction without notice to a possible hostile party.



Balancing Student Privacy and School Safety..... per U.S. Department of Education, 2007.

This amendment came out of the 2007 Virginia Tech shootings:

*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 speak to responsible parties about observations or direct information.

- *You see two students get into a fight.*
- *A student tells you something directly, and you are concerned.*

Not OK to share anything derived from their academic record.

- *You know from personal knowledge that a student is failing.*

Balancing Student Privacy and School Safety... continued

- A school official can share with medical personnel, law enforcement officials, and public health officials (as well as parents) records and information about a student without a student's written consent.
- Only good for the time period of the emergency.
 - A pandemic is considered a state of emergency. This allowed us to report COVID-19 positive cases to DHEC or other health organization as required. We do not ID the student(s) to the public, however.



Student athletes and sponsor contracts-2021

- Because student athletes are required to share contracts with Winthrop, and Winthrop must review and maintain a list of those contracts, these contracts are considered education records and may not be released to anyone outside of Winthrop.

--per AACRAO guidance 9/7/2021



Question...

Scenario:

A loan officer at Founders Federal Credit Union calls and wants to verify a student's degree for a special loan rate for new graduates.

- You check Banner and find the person did graduate from WU but has a **CONFIDENTIALITY** flag.

Do you verify to the officer that this person graduated?



RESOLUTION...

You respond:

“I have no information that I can release on that individual.”

You are honoring the student’s FERPA right of non-disclosure.



Question...

True or False?

- Deceased student's educational records are still protected under FERPA.



ANSWER....

False.

- The privacy interests of an individual **expire** with that individual's death.



Consider this situation....

A faculty member has an emergency and must leave class before distributing test results to his students. He leaves the graded exams in a pile on the desk and instructs the student to pick them up themselves.

Is this distribution method in compliance with FERPA?



ANSWER....

NO – This method of grade distribution is a **VIOLATION** of FERPA and could subject the faculty and the University to a formal complaint.

Why? Because while trying to locate their own exam results the students would have access to other student's data.



Question...

A student has asked you to write a recommendation for a job. Which of the following can you disclose without the student specifying in their request?

- A. Grades in your class
- B. Work ethic
- C. Grasp of the subject material



ANSWER.....

B and C

The student must specify if he or she wants her grade in your class to be released. The others are observations.



True or False:

1. The Catawba Indians have requested a list of students who list native American as their race. Winthrop can provide this list. **FALSE.** *Race is not directory information*
2. It is ok to disclose the grade of a student on social media if you don't use their full name. **FALSE.** *Anything that can identify the student means the info cannot be released without their permission.*
3. A faculty member emails their class about an assignment and does not use the blind copy feature. This is allowed. **True.** *Email is directory information. Caution, however...*



MORE TRUE OR FALSE....

4. Currently attending WU students have the right under FERPA to request that all of their educational records not be revealed, to anyone, and WU must comply.

FALSE. Confidentiality rights only apply to directory information. WU can still disclose to outside agencies as allowed by law.

5. Parents may obtain confidential information from their student's academic record.

TRUE. If student is a dependent, WU "may" legally release information

6. A WU student's degree can posted on our website without first obtaining the permission of the student.

TRUE. Degree is directory information



True or False—two more

7. A former student is involved in a lawsuit and some of their records have been made public. A reporter from the Herald calls and wants to discuss these records. It is OK to do this.

False. *We would have to have the student's written permission.*

8. An instructor records his Zoom lecture where students' faces and names can be seen. He uploads the recording to BlackBoard for only the class members to view. This is OK.

True. *Only students enrolled in the class are covered, even if a student was absent at the time the recording was made.*



Review.....KEY FERPA CONCEPTS...

- 1. Written permission required for disclosure of student education record:**
 - If it's not Directory Information – don't release it.
- 2. Exceptions to written permission rule exist:**
 - School officials with Legitimate Educational Interest
 - Financial aid providers and authorities
- 3. Students have right to access & review their records, and due process for complaints.**
- 4. Parents/parental disclosure –**
 - Parents may have access if they can produce current tax return which shows student is a dependent.

FERPA link on Rec and Reg website

- About the Department +
- Calendars +
- Catalogs
- Cultural Events
- Graduation Information
- Faculty & Staff
- Forms Online
- Students +
- Transcripts & Records +
- Veterans Benefits
- Contact Us

- Related Links**
- Academics
 - Academic Space & Scheduling
 - Cashiers
 - Course Offerings
 - Course Descriptions
 - Course Override Information
 - Cultural Events
 - Degree / Enrollment Verifications
 - Financial Aid
 - FOIA Request
 - GPA Calculator
 - Graduate School
 - Majors and More
 - Parent Proxy
 - Privacy of Student Records (FERPA)**
 - Special Course Registration Form
 - Transcripts

Office of Records & Registration



Connect With Us

Please contact the Office of Records and Registration if you have questions or need assistance.

Office Hours

Monday - Friday, 8:30 a.m. - 5:00 p.m.

[Contact us](#) ➤

Registrar's Calendar

- **Last day to Withdraw or S/U First-Half Semester classes, by 5:00 PM**
Thursday, September 23, 2021
- **Last day to Add/Drop Middle Third Semester classes**
Wednesday, September 29, 2021

[Full Calendar >>](#)

AUTHORITATIVE SOURCES

- **2010 FERPA Quick Guide.** American Association of Collegiate Registrars and Admissions Officer. LeRoy Rooker, editor. (Senior Fellow AACRAO and former Director – US DOE Family Policy Compliance Office.)
- **The FERPA Answer Book for Higher Educational Professionals.** 2009. Aileen Gelpi, Esq., and Clifford A Ramirez. Wiley Periodicals, Inc. A Wiley Company.
- **U.S. Dept. of Education. Family Policy Compliance Office.**
 - <https://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html>



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