

FERPA Training for Employees

What is FERPA?

- The Family Educational Rights and Privacy Act (FERPA) of 1974 (also called the Buckley Amendment) is a Federal law that:
 - protects the privacy of students' education records
 - establishes rights for students relative to the disclosure of education records

What FERPA is *NOT*....

- A law that only pertains to public institutions
- A law that is only applicable to offices that handle grades

Who is Required to Complete FERPA training?

- All LSUHSC-NO faculty, staff and students.

Why Do I need to take FERPA training if I don't handle student Records?

- LSUHSC-NO faculty and staff are granted access to a great deal of restricted information through the University's integrated databases.
- LSUHSC-NO is required to manage educational records consistent with the FERPA requirements because the University is a recipient of federal funds.
- LSUHSC-NO has developed an on-line training program to ensure consistent observance of these requirements.

What Does the on-line FERPA Course include?

This tutorial includes a brief overview of the rules governing students' rights and the release of education records as provided for in the FERPA regulations.

Why Comply with FERPA?

- It's the law
- Failure to comply could result in the withholding of federal funds including student financial aid
- Lawsuits caused by violations cost a lot of time and money
- It is our ethical responsibility to hold student records in confidence in order to protect their privacy

What are education records?

- Education records are records which are directly related to a student and maintained by LSUHSC-NO or by a party acting for LSUHSC-NO, which contains personally identifiable information.
 - What is “**Personally Identifiable**” information?
It means data or information which includes:

What are education records? (cont.)

- The name of the student, the student's parent(s), or other family members;
 - The student's campus or home address;
 - A personal identifier (such as a social security number or student number);
 - A list of personal characteristics or other information which would make the student's identity easily traceable.
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- Education records include any records in whatever medium that are in the possession of any school official, not just those records contained in the student's permanent file.

Be Aware!

The contents of an educational record may appear in a variety of forms such as:

- Handwritten document
- Computer screen
- Print out
- Image
- Magnetic tape
- Film
- Diskette

Examples of FERPA records

- Graded papers/Grades
- Information related to students on a computer
- Class lists/reports with names and social security numbers
- Students' schedules

Educational Records do NOT include:

- “Sole Possession” notes- notes made by one person as an individual observation or recollection, are kept in the possession of the maker, and are only shared with a temporary substitute.
 - Notes taken in conjunction with any other person **are not** sole possession notes (counselor’s notes, interview notes)
 - Sharing these notes with another person , or placing them in an area where they can be viewed by others makes them “education records” and subject to FERPA.
 - Best advice, if you do not want the record reviewed, don’t write it down.

Educational Records do NOT include (cont.)

- Records of law enforcement or campus security at LSUHSC-NO, subject to certain exceptions
- Records relating to individuals who are employed by the institution, which are:
 - Made and maintained in the normal course of business
 - Relate exclusively to the individual in the individual's capacity as an employee; and
 - Are not available for use for any other purpose

Educational Records do NOT include (cont.)

- Records relating to treatment provided by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional and disclosed only to individuals providing medical treatment
- Records of LSUHSC-NO that contain information about an individual obtained only after that person is no longer a student at LSUHSC-NO (e.g. Alumni Records)
- Financial information submitted by parents

Who is a “student” under FERPA?

- A student for the purposes of FERPA is any individual who has been admitted and is enrolled.
- If a student has not yet enrolled or not in attendance, then a FERPA “education record” has not begun.
- Additionally, individuals never admitted to the institution do not have an “education record.”

Students' Rights

- FERPA gives students the following rights:
 - To consent to the disclosure of their education records
 - To inspect and review their education records within 45 days of request
 - To seek amendment of their education records
 - To file a complaint with the Family Policy Compliance Office in Washington, D.C.

Right to Consent to Disclosure of Education Records

- Education records are considered confidential and may not be released without the written consent of the student, unless a FERPA exception applies.
- Implied consent or verbal consent is NOT allowed under FERPA.

Disclosures that can be made to Parents without written consent of the student

- The following disclosures can be made to parents' of students without a student's prior written consent:
 - Disclosures to parents' of a dependent student, as defined in the IRS Code
 - Disclosures to parents in connection with a health or safety emergency when the knowledge of the information is necessary to protect the health or safety of the student or other individuals.

Disclosures that can be made to Parents without written consent of the student (cont.)

- Disclosures to parents' of a student at LSUHSC-NO regarding the student's violation of any Federal, State or local law, or of any rule or policy of the University, governing the use or possession of alcohol or a controlled substance if:
 - LSUHSC-NO determines 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 to the parent.

Disclosures that do not require written consent of the student

- Disclosure of education records can be made without the written consent of the student for the following reasons:
 - To LSUHSC-NO officials and faculty who have a legitimate educational interest (need to know to fulfill official responsibilities)
 - To other educational institutions in which the student seeks to enroll
 - To certain federal and state educational authorities
 - To institutions or organizations from which the student has applied to for or received financial aid

Disclosures that do not require written consent of the student

- To accrediting agencies
- To organizations for use in developing, validating, or administering predictive tests, administering student aid programs, and improving instruction
- To courts of law in response to court order or subpoenas
- To appropriate parties in connection with health and safety emergencies
- To the alleged victim of any crime of violence or non-forcible sex offense.
 - The disclosure may only include the results of any disciplinary proceeding conducted by the University against the alleged perpetrator of that crime.
- Additionally, certain information called directory information can be released without the written consent of the student.

What is Directory Information?

- At LSUHSC-NO, directory information is defined as follows:
 - Student's name, local address, and telephone number
 - Student's home address
 - Student's E-mail Address
 - Date/place of student's birth
 - Student's major field of study/classification
 - Student's participation in officially recognized activities and sports
 - Dates of student's attendance
 - Enrollment Status
 - Degrees, awards, and honors received by student
 - Expected graduation date
 - Planned post-completion placement (e.g. AAMC match)
 - The most recent previous educational institution attended by the student
- A student who desires that any or all of the above information not be released must submit a written request to the LSUHSC-NO Office of the Registrar no later than the 10th day of the academic term.

Release of Directory Information and Education Records

- To ensure proper handling of education records and compliance with a student's right not to have directory information released, forward all inquiries for student information and/or education records to the LSUHSC-NO Office of the Registrar.
- A student must submit a written request to the LSUHSC-NO Office of the Registrar no later than the 10th day of the academic term to prevent release of directory information.

Right to Inspect and Review Education Records

- Students must be granted access to inspect and/or review their education records.
- Access must be provided within a reasonable period of time, but in no case more than 45 days from the day LSUHSC-NO receives the request for access.
- While FERPA grants a student the right to access/inspect their education records, the Act does not provide the right to obtain a copy of those records, except in limited circumstances.

Recommendation Letters

- In order to include non-directory information in a recommendation letter, the faculty or staff member must obtain written consent from the student.
- A student will also have a right to access a copy of the recommendation letter.
- A student may waive, in writing, his/her right of access to confidential recommendations
 - Respecting admission to any educational agency or institution;
 - Respecting an application for employment; and
 - Respecting the receipt of an honor or honorary recognition.

Recommendation Letters (cont.)

- However, the waiver shall apply only if:
 - The student is, upon request, notified of the names of all persons making confidential recommendations and
 - The recommendations are used solely for the purpose for which they were specifically intended.
- Waivers may not be required as a condition for admission to, receipt of financial aid, or receipt of any other services or benefits from the agency or institution.

Right to Seek Amendment

- If a student believes that any information in his/her education record is inaccurate, misleading, or in violation of their privacy rights, he/she may request in writing that LSUHSC-NO amend the record.
- LSUHSC-NO shall decide whether to amend the record as requested within a reasonable time after the request to amend is received.

Right to Seek Amendment (cont.)

- If LSUHSC-NO decides not to amend the record as requested, it shall inform the student of its decision and of his/her right to a hearing.

Right to File a Complaint

- Anyone who believes that LSUHSC-NO has failed to comply with the requirements of FERPA may contact:
 - The LSUHSC-NO Office of the Registrar
 - The LSUHSC-NO Privacy Officer in the Office of Compliance Programs; or
 - File a complaint with the U.S. Department of Education.
 - Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-5901

Basic Rules to Remember

- As a faculty and staff member, you have a responsibility to protect the education records in your possession.
- Student educational records are considered confidential and may not be released without written consent of the student
- “Directory Information” is information that is considered public and can be released without written permission unless the student opts to withhold

Basic Rules to Remember (cont.)

If you are ever in doubt.....

**DON'T
GIVE IT OUT!!!!!!**

Faculty and Staff Responsibilities

- Awareness of your work area. Is there any student information which may need to be handled in a secure way?
 - Graded papers/Grades
 - Student information displayed on your computer screen
 - Class lists/reports with names and social security numbers
 - Students' schedules

Faculty and Staff Responsibilities (cont.)

- LSUHSC-NO faculty and staff are granted access to a great deal of restricted information through the University's integrated databases.
- LSUHSC-NO faculty and staff must show a legitimate educational interest (meaning need to know to fulfill official responsibilities) as part of their role in the University to access a student's education record.
- The consequences of how faculty and staff handle, or mishandle education records can result in disciplinary action up to termination of employment and possibly loss of federal funds for violations of FERPA.

How can I avoid a FERPA violation?

- Do not use a student's social security number in any public manner.
- Do not leave graded tests in a stack for students to pick up by sorting through the papers of all students.
- Do not circulate a printed class list with student name and social security number or grades as an attendance roster.

How can I avoid a FERPA violation? (cont.)

- Do not discuss the progress of any student with anyone other than the student (including parents) without the consent of the student.
- Do not provide anyone with lists of students enrolled in your classes for any commercial purpose.
- Do not provide anyone with student schedules or assist anyone other than university employees in finding a student on campus.

Common Questions

- Question
 - A student requests to review his/her file. Is the University required to allow the student to review his file?
- Answer:
 - Yes, LSUHSC-NO is required by FERPA to allow students to review their education records.
 - LSUHSC-NO cannot remove any documents related to the requesting student from the files before the review.
 - However, the student's file should be reviewed and information on any other students contained in the file must be removed/redacted before the requesting student views the file.

Common Questions

- Question:
 - Can student grades be posted by Social Security or Name?
- Answer:
 - No. Even with written permission from each of the students, this method is not recommended.
 - Posting grades using a unique number, such as Empl ID, assigned to each student is the preferred method.

Common Questions

- Question:
 - Can I include non-directory information in a letter of recommendation for a student?
- Answer:
 - **Yes, but only** if the student provides **written** permission for the individual writing the letter of recommendation to release such information.

Common Questions

- Question:
 - Are notes taken by the interviewer during interviews with individual students considered “sole possession” notes, if the notes have not been shared with anyone?
- Answer:
 - The Family Policy Compliance Office has determined that notes prepared with the assistance or participation of others, such as the students interviewed, are education records and the students who were interviewed would be entitled to the notes regarding their portion of the interview.

Common Questions

- Question:
 - If an unauthorized person retrieves information from a computer screen that was left unattended, is LSUHSC-NO responsible?
- Answer:
 - Yes, the medium in which information is held is unimportant. No information should be left accessible or unattended, including the computer. ALWAYS electronically lock your computer when you leave your work area.

Common Questions--Subpoenas

- Question:
 - LSUHSC-NO gets a subpoena for student records from a state court in Texas, does the University have to respond to the subpoena?
- Answer:
 - No. LSUHSC-NO will only respond to a validly issued subpoena and served on the proper custodian of the records.
 - A state court has legal jurisdiction only within that state. LSUHSC-NO may only answer subpoenas from another state if letters rogatory have been issued through the Attorney General's Office.

Common Questions—Subpoenas (cont.)

- For subpoenas issued by a Federal court, the University may have a duty to respond and should be forwarded to University Counsel for review.
- Additionally, FERPA requires that the University notify the student that their information is being requested pursuant to a subpoena.
- Should you have questions regarding subpoena validity and valid service of process, contact LSUHSC-NO Legal Counsel.

Additional Questions?

- For any questions on complying with the requirement of FERPA, please contact:
 - The LSUHSC-NO Office of the Registrar
 - Telephone: (504) 568-4829
 - Email: registrar@lsuhsc.edu; or
 - The LSUHSC-NO Office of Compliance Programs
 - Hotline Complaint: (504) 568-2347
 - Office: (504) 568-2350
 - Email: nocompliance@lsuhsc.edu