



## **Privacy of Educational Records (Compliance with FERPA)**

### **Policy No. 04.01**

#### **I. PURPOSE**

FERPA is the acronym for the Family Educational Rights and Privacy Act. Originally enacted in 1974 as part of a bill extending the Elementary and Secondary Education Act of 1965, it has been amended over the years since. FERPA, with which the University intends to comply fully, was enacted as a series of civil rights legislation, designed to assert and protect the rights of students and their parents. Its primary purpose was two-fold: to assure parents of students' access to their education records and to protect such students' rights to privacy by limiting the transferability of their records without their consent.

#### **II. DEFINITIONS**

- A. **Education Records.** Those records, files, documents, and other materials which contain information directly related to a student and are maintained by TSU or by a person acting for the University. Education records refer to information recorded in any medium including, but not limited to, handwriting, print, tapes, film, CDs, emails, or electronic devices. Education records do not include: (1) personal notes not accessible or revealed to others; (2) records maintained by law enforcement personnel solely for law enforcement purposes; (3) employment records (except those of student employees); (4) medical, psychological, and psychiatric records (these are accessible by the student's physician); or, (5) records created or received after an individual is no longer a student in attendance that are not directly related to the individual's attendance as a student.
  
- B. **School Official.** A person employed by TSU in an administrative, supervisory, academic, research, or support position (including law enforcement unit personnel and health staff); a person or company with whom TSU has contracted as its agent to provide a service instead of using University employees or officials; a person serving on the TSU Board of Trustees; or, a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his/her tasks.

- C. Student. A student is any person who is or has been enrolled at Tennessee State University. An applicant who does not enroll or who is declared ineligible has no inherent right to inspect any file. Wherever "student" is used in reference to personal rights, an eligible parent of a dependent student has similar rights. This eligible parent is one who has satisfied Section 52 of the Internal Revenue Code of 1954 and who presents such proof to the custodian of the education records. Normally this proof will be written affirmation by the student and the parent declaring that the student is a dependent for Federal Income Tax purposes.

### III. RELEASE OF STUDENT INFORMATION

- A. Generally, Tennessee State University does not permit access to, or the release of any personally identifiable information other than Directory Information, without the written consent of the student. However, FERPA allows schools to disclose those records, without consent, to the following parties or under the following conditions:
1. School officials with 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/her professional responsibilities for the University or for the student's benefit);
  2. Other schools to which a student is transferring;
  3. Specified officials for audit or evaluation purposes;
  4. Appropriate parties in connection with financial aid to a student;
  5. Organizations conducting certain studies for or on behalf of the school;
  6. Accrediting organizations;
  7. To comply with a judicial order or lawfully issued subpoena;
  8. Appropriate officials in cases of health and safety emergencies; and
  9. State and local authorities, within a juvenile justice system, pursuant to specific State law.
- B. Directory Information.
1. Tennessee State University may disclose, without consent, "directory information" such as: a student's name, address, telephone listing, institutional electronic mail address, photograph(s), videotape/digital image(s), date and place of birth, major field of study, classification, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degree(s), honors and academic awards received, the most recent previous educational agency or institution attended by the student.
  2. At the time a student registers for courses, the student may notify the Records Office in writing by filling out the Request to Prevent Disclosure of Directory Information Form that "directory information" should not be released. This notification is only effective for the current semester for which the student will be enrolled.

#### IV. ACCESSING EDUCATIONAL RECORDS

Eligible students have a right to inspect and review their education records. To do so, the student must request the records custodian to make the records available. The student may ask for an explanation and/or a copy of the record. Charges for copies of the record will be assessed in accordance with TSU's Public Records- Inspecting and Copying Policy. The records shall be made available within forty-five (45) days after the request.

#### V. AMENDING AN EDUCATIONAL RECORD

Students may ask the University to amend a record they believe is inaccurate, misleading, or in violation of the student's privacy rights. The student should write the official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading. If the University decides not to amend the record, the student will be notified of his or her rights to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing. This policy does not provide for a hearing to contest an academic grade, which is outlined in a separate policy.

#### VI. RIGHT TO FILE A COMPLAINT

If a student feels that one or more violations of FERPA has occurred, the student may report these to the Registrar's Office, where a school official will assist the student in receiving local resolution, before filing a formal complaint. Also, a student may file a complaint with the Secretary of the U.S. Department of Education.

#### VII. PARENTAL ACCESS TO STUDENT RECORDS

- A. The Family Educational Rights and Privacy Act (FERPA) protects the privacy of any child's education records. Once a child turns 18 or attends a school beyond high school, a parent can no longer access his or her records without the child's written consent. If a parent wants to access his or her child's Tennessee State University records, he or she must complete the Student Release of Confidential Information Form.
- B. Without the child's consent, FERPA allows Tennessee State University to release information to a parent if at least one of these statements applies:
  - 1. The child is considered a "dependent" for tax purposes. The parent must verify this with a copy of his or her most recent tax return.
  - 2. The child is under age 21 and has violated any law or policy concerning the use or possession of alcohol or a controlled substance.
  - 3. A health or safety emergency involves the child.

4. The information an official is sharing is based on personal knowledge or observation of the child.
- C. If a parent's insurance provider requires verification that his or her child is enrolled at Tennessee State University, the parent must have their son or daughter complete the Enrollment Verification Form. The form may be mailed or faxed to the Records Office.

## VIII. APPLICATION

- A.** Can a school disclose information to parents in a health or safety emergency?

Yes. Tennessee State University is permitted to disclose information from education records to parents if a health or safety emergency involves their son or daughter. The disclosure of such information shall be limited to data that is necessary to manage the emergency situation.

- B.** Can parents be informed about students' violation of alcohol and controlled substance rules?

Yes. TSU is permitted to inform parents of students under the age of 21 of any violation of law or policy concerning the use or possession of alcohol or a controlled substance.

- C.** Can a school disclose law enforcement unit records to parents and the public?

TSU may disclose information from "law enforcement unit records" to anyone -- including parents or federal, State, or local law enforcement authorities -- without the consent of the eligible student. Many colleges and universities have their own campus security units, just as Tennessee State University does. Records created and maintained by these units for law enforcement purposes are exempt from the privacy restrictions of FERPA and can be shared with anyone.

- D.** When may a school disclose information to parents of dependent students?

Under FERPA, schools may release any and all information to parents, without the consent of the eligible student, if the student is a dependent for tax purposes under the IRS rules or if the student voluntarily provides the University with a waiver consenting to his or her parent's access to educational records.

- E.** Can school officials share their observations of students with parents?

Nothing in FERPA prohibits a school official from sharing information with parents that is based on that official's personal knowledge or observation and that is not based on information contained in an education record. Therefore, FERPA would not prohibit a

professor or other school official from letting a parent know of his or her concern about the student based on his or her personal knowledge or observation.

**F. How does HIPAA apply to student education records?**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a law passed by Congress intended to establish transaction, security, privacy and other standards to address concerns about the electronic exchange of health information. However, the HIPAA Privacy Rule excludes from its coverage those records that are protected by FERPA at school districts and postsecondary institutions that provide health or medical services for students. This is because Congress specifically addressed how education records should be protected under FERPA. For this reason, records that are protected by FERPA are not subject to the HIPAA Privacy Rule and may be shared with parents under the circumstances described above.

**IX. NOTICE TO STUDENTS**

TSU informs its students of the policy governing privacy rights of education records (FERPA) via this policy and the University website.

**Adopted: June 2020**