

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

(FERPA)

INFORMATIONAL GUIDELINES

MORNINGSIDE COLLEGE

FALL 2011

*The Morningside College experience cultivates a passion for life-long learning
and a dedication to ethical leadership and civic responsibility.*

The Family Education Rights and Privacy Act of 1974, as amended (FERPA), also known as the Buckley Amendment, is a federal law, which affords students certain rights with respect to their education records. Specifically, it affords students the rights to:

- Inspect and review their education records;
- Request the amendment of inaccurate or misleading records and request a hearing if the request to amend is denied;
- Consent to disclosure of personally identifiable information contained in their education records;
- File a complaint with the U.S. Department of Education concerning an alleged failure by the institution to comply with the law.

THE ESSENCE OF THE ACT

College students must be permitted to inspect their own education records. School officials may not disclose personally identifiable information about students nor permit inspection of their records without their written permission unless such action is covered by certain exceptions permitted by the Act. Students who have ceased attendance or who have graduated from an institution have the same FERPA rights as students currently attending.

As the methods of delivering education to students changes, this does not mean that the FERPA rules change. We must be fully in compliance with FERPA no matter how education is delivered to students or where these students are located to receive their education.

DEFINITIONS

DIRECTORY INFORMATION—Directory information is information contained in an education record of a student which would not generally be considered as harmful or an invasion of privacy if disclosed. Morningside College has designated directory information to be the following:

- Name
- Local and permanent addresses
- Telephone number(s)
- E-mail address
- Date and place of birth
- Major or field(s) of study
- Dates of attendance
- Grade level
- Enrollment status (FT/PT; undergraduate/graduate)
- Degrees, awards, and honors received and dates
- Expected date of completion of degree requirements and graduation
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Most recent educational institution attended
- Photograph

Student identification numbers or social security numbers, race/ethnicity, gender, citizenship, nationality, and religion cannot be designated as directory information.

EDUCATION RECORD—Student education records are records, files, documents, and other materials that contain information directly related to a student and maintained by the college or someone acting for the college. These records include: files, documents, and materials in whatever medium (handwriting, print, tapes, disks, film, microfilm, microfiche), which contain information directly related to students and from which students can be personally (individually) identified.

Education records are **NOT**:

- Records kept by college employees which are in the sole possession of the maker and are not accessible or revealed to any other person except a temporary substitute;
- Employment records unless the employment records are contingent on the fact that the employee is a student (work-study);
- Records maintained by the law enforcement/security unit solely for law enforcement purposes;
- Application records of students not admitted to or not in attendance at the college;
- Records maintained by counseling or health services;
- Pastoral counseling records maintained by the college chaplain;
- Alumni records

ELIGIBLE STUDENT—FERPA applies to the education records of persons who are or have been in attendance, including students in cooperative, correspondence, or distance education programs. “In attendance” is defined by Morningside College as the day the student first attends a class at the institution.

LEGITIMATE EDUCATIONAL INTEREST—the demonstrated “need to know” by those officials of an institution who act in the student’s educational interests, including faculty, administration, clerical and professional employees, and other persons, including student employees or agents, who manage student information. A legitimate educational interest exists if the school official needs to view the education record to fulfill his or her professional responsibility. Neither curiosity nor personal interest is a legitimate educational “need to know”.

PERSONALLY IDENTIFIABLE—data or information, which includes, but is not limited to:

- The name of the student, the student’s parents, or other family members;
- The campus or home address of the student or the student’s family’s 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

SCHOOL OFFICIAL—a person employed by the institution in an administrative, supervisory, academic, research, or support staff position; a person or company with whom the institution has contracted (i.e., an auditor, attorney or collection agency); contractors, volunteers, and other non-employees performing institutional services and functions; a person serving on the Board of Trustees; a student serving on an official committee or assisting another school official in performing his/her task

SOLE POSSESSION RECORD—record that is kept in the sole possession of the maker and used only as a personal memory aid, and is not accessible or revealed to any other person except a temporary substitute of the maker of the record. Any record that is made in conjunction with a student or other school official is not a sole possession record. If a school official places his or her notes in a file to which other school officials, or the student, have access, or if the notes were prepared with the assistance or participation of others (interview notes), the notes could be considered “made accessible to” other persons and therefore would be considered “education records” subject to FERPA. BEST ADVICE: IF YOU DON’T WANT IT REVIEWED, DON’T WRITE IT DOWN.”

TYPES OF EDUCATION RECORDS

Following is a list of types of education records available on the Morningside College campus:

- Academic records
- Academic dishonesty records
- Admission records
- Disciplinary and student conduct records
- Financial records
- Learning disability records
- Progress and advising records

Institutional law enforcement and medical treatment records should always be kept separate from education records. Such separation of records not only further protects the privacy of the student’s education record, but facilitates timely and appropriate access to personal and sensitive information by authorized school officials.

LIMITATIONS ON STUDENTS’ RIGHTS TO INSPECT AND REVIEW THEIR EDUCATION RECORDS

Limitations exist on students’ rights to inspect and review their education records. The institution is not required to permit students to inspect and review the following:

- Financial information submitted by parents
- Confidential letters and recommendations placed in their files after January 1, 1975, to which the student has waived his or her right to inspect and review and that are related to the student’s admission, application for employment or job placement, or receipt of honors
- Education records containing information about more than one student; however, in such cases the institution must permit access to that part of the record which pertains only to the inquiring student

RELEASE OF DIRECTORY INFORMATION

The release of directory information to any group for publications such as student directories, award ceremonies, yearbooks, etc. is subject to FERPA restrictions. Any group seeking to publish a student directory or program at an institution that chooses to release directory information must do so through a supervising school official or office. It must give students who wish to be excluded from the listing the opportunity to notify the group within an appropriate timeframe prior to publication.

STUDENT'S RIGHT OF NON-DISCLOSURE

- A student has the right to request non-disclosure of directory information only.
- Institutions must honor a non-disclosure request for directory information.
- The non-disclosure hold remains in effect for an academic year or until the student directs the institution to remove it. This remains true even after the student has ceased attendance at the institution. For information on graduating seniors, see below.

A student can request, while still enrolled, that the college not release any directory information about him or her. Forms for this are available in Student Services and must be renewed each academic year. Colleges must comply with this request. If a student has requested non-disclosure of directory information in his or her last term of attendance, that request must be honored until that student requests its removal. With graduating students, the decision to request non-disclosure is particularly important as the decision may have employment, and other repercussions. In instances where a student is considering non-disclosure, the student should be advised of the potential problems that may occur as prospective employers and other interested parties make inquiries. Students may indicate on the CampusWeb that they would like non-disclosure of directory information, and all college personnel should honor this request. However, official notification of non-disclosure must still be made in writing in Student Services.

THE SOLOMON AMENDMENT

Under the Solomon Amendment, institutions are required to provide directory-type information on students, at least 17 years of age who are registered for at least one credit, upon request from representatives of the Department of Defense for military recruiting purposes. This information, referred to as "student recruitment information," includes: student name, addresses, telephone listings, age or year of birth, place of birth, level of education or degrees received, academic major, and the most recent previous educational institution in which the student was enrolled. If the student has formally requested the school to withhold directory information to third parties under FERPA rules, then the "student recruitment information" will not be released under the Solomon Amendment.

EMERGENCY SITUATIONS

If non-directory information is needed to resolve a crisis or emergency situation, an educational institution may release that information if the institution determines that the information is “necessary to protect the health or safety of the student or other individuals”. This includes releasing information to school officials at another institution. A record must be made of the disclosure. Factors to be considered or questions to be asked in making a decision to release such information in these situations are:

- The severity of the threat to the health or safety of 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 to be given to deal with the emergency

The institution may want to develop some procedures that balance the student’s privacy with the emergency situation. For example, rather than releasing a student’s schedule to a third party, a representative of the college could deliver an emergency message to the student and the student could respond accordingly.

PARENTS

One of the main emphases of FERPA is that personally identifiable information in an education record may not be released without prior written consent from the student. However, the Act does provide exceptions to this consent requirement, which allow institutions to disclose personally identifiable information from a student’s education record without prior written consent. There is an exception to release non-directory information to parents under certain conditions. Records/information may be released to parents only if one of the following conditions has been met:

- Through the written consent of the student (Forms are available in Student Services or the Registrar’s Office.)
- In compliance with a subpoena
- By submission of evidence that the parent declared the student as a dependent on the most recent federal income tax form
- A student, under the age of 21, has violated a federal, state, local or institutional law/policy related to the use of alcohol or a controlled substance. This disclosure can be made regardless of whether or not the student is financially dependent.

DISCIPLINARY ACTION

An education agency or institution may include information in a student’s education records concerning disciplinary action taken against the student for conduct that posed a significant risk to the safety and well being of that student, other students, or other members of the school community. An institution may disclose, without prior consent, information contained in a student’s education record concerning disciplinary action taken against the student, described above, to teachers and school officials who have legitimate educational interests in the behavior of the student. FERPA has been amended to allow this type of disclosure to teachers and officials in other schools who have legitimate educational interests in the behavior of the student. This means that institutions may disclose, without the student’s

prior written consent, information about certain disciplinary actions taken against the student to other institutions, regardless of level, and that the student does not have to be either (1) in attendance at the other institution or (2) seeking or intending to enroll at another institution.

In addition, the institution may disclose to the public, without written consent of the student, the final results of an institutional disciplinary proceeding if it has been determined that the student was the alleged perpetrator of a crime of violence or non-forcible sex offense. The final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

ADMISSION FILES

Student admission files for any admitted students should be reviewed in order to remove any items which have fulfilled their admission-related purpose and will no longer be required in the student's academic career. Although an institution can decide which records to keep and which to destroy, each institution should establish a regular process to accomplish this task. One category of items, which should be considered for removal, is notes written by admission counselors during the admission process and any voting records found in students' files on which a decision of admission has been based. The information, if not removed from a student's file, becomes a part of the student's education record and can be reviewed by the student.

RECORDS OF NON-ADMITTED STUDENTS

Persons who applied for admission but were not accepted have no rights under FERPA. Admitted students are covered by FERPA once they have enrolled at the institution. Individuals who are denied admission are not entitled by FERPA to have access to materials relating to the denied application.

SUBPOENA

According to regulations, non-directory, personally identifiable information from education records can be released to comply with a judicial order or lawfully issued subpoena provided that the institution makes a reasonable effort to notify the student of the order or subpoena in advance of compliance. Legislation modified the requirement of notifying students of the receipt of a subpoena. This legislation orders institutions not to notify the student of the receipt of a federal grand jury subpoena, or any other subpoena issued for a law enforcement purpose, if specifically ordered not to do so in the subpoena. Furthermore, if an institution initiated legal action against a student, or vice versa, no subpoena for the relevant education records of a student would be required for the institution to either proceed with legal action as plaintiff or defend itself.

LETTERS OF RECOMMENDATION

Statements made by a person making a recommendation that are made from that person's personal observation or knowledge do not require a written release from the student who is the subject of the recommendation. However, if personally identifiable information (non-directory information) obtained from a student's education record is included in a letter of recommendation (grades, gpa, etc.), the writer is required to obtain a signed release from the student which: 1) specifies the records that may be disclosed; 2) states the purpose of the disclosure, and; 3) identifies the party or class of parties to whom the disclosure can be made. If kept on file by the person writing the recommendation, the letter would be part of the student's education record and the student has the right to read it unless he or she has waived the right to access.

INFORMATION RELATED TO OFFICES, CLASSES, AND GRADES

The public posting of grades, either by the student's name, institutional student identification number, or social security number, without the student's written permission is a violation of FERPA. This includes the posting of grades to a class/institutional website and applies to any public posting of grades for students taking distance education courses. Instructors and others who insist on posting grades should use a system that ensures that FERPA requirements are met. This can be accomplished either by using code words or randomly assigned numbers that only the instructor and individual student know. The order of posting should not be alphabetic.

Notification of grades via e-mail is slightly more secure than sending grades on a postcard via USPS. However, there is no guarantee of confidentiality in transmitting information electronically via campus e-mail or through the Internet. Faculty who wish to send grades to students via e-mail need to understand that if there is an unauthorized release of grades to someone who is not a school official, the institution would be in violation of FERPA if the student whose grades were illegally disclosed filed a complaint.

Faculty who utilize electronic teaching tools may wish to share students' e-mail addresses or other personally identifiable information with others in the same class. This is permissible as long as: 1) the institution has identified e-mail addresses as directory information; 2) the students have had an opportunity to request that their e-mail addresses not be disclosed, and; 3) the faculty member does not share the e-mail address of any student who has requested non-disclosure.

GUIDELINES

- Grades, transcripts, or degree audits distributed for purposes of advisement should not be placed in plain view in offices or public places.
- Graded papers or tests should not be left unattended on a desk in plain view in a public area nor should students sort through them in order to retrieve their own work.
- Class rosters, grade sheets, and other reports should be handled in a confidential manner, and information contained on them should not be disclosed to third parties.
- Requests for information from the education record of a student should be referred to the proper education record custodian.

- Keep only those individual student records necessary for the fulfillment of your responsibilities. Private notes concerning a student and intended for your use only are not part of the student's education record.
- Keep any personal professional records relating to individual students separate from their education records. Private records of instructional, supervisory, and administrative personnel and ancillary education personnel are to be kept in the sole possession of the maker and are not to be accessible or revealed to any other person, except a substitute.
- Change factual information regarding grades and performance in an education record when the student is able to provide valid documentation that information is inaccurate or misleading. The substantive judgment of a faculty member about a student's work, expressed in grades and/or evaluations, is not within the purview of students' right to challenge their education record.
- DO NOT display student scores or grades publicly in association with names, social security number, student identification numbers, or other personal identifiers. If scores or grades are posted, use some code known only to you and the individual student. In no case should the list be posted in alphabetic sequence by student name.
- DO NOT put papers, graded exams books, or lab reports containing student names and grades in publicly accessible places. Students are not to have access to the scores and grades of others in class in ways that allow other students to be identified.
- DO NOT request information from the education record custodian without a legitimate educational interest and the appropriate authority to do so.
- DO NOT share student education record information, including grades and grade point averages, with faculty or staff members of the institution unless their official responsibilities identify their legitimate educational interest in that information for that student.
- DO NOT share information from student education records, including grades or grade point averages, with parents or others outside the institution, including letters of recommendation, without written permission from the student.

****IF YOU RECEIVE AN INQUIRY ABOUT A STUDENT, EVEN IF THE INQUIRY IS FROM A PARENT, FORWARD THE INQUIRY TO THE REGISTRAR'S OFFICE OR THE ACADEMIC DEAN.****

WHEN IN DOUBT, DON'T GIVE IT OUT!

For additional information contact the Registrar's Office.

The source for the above information was *The AACRAO 2001 and 2006 FERPA Guides*.

PERMISSION TO WRITE LETTER OF RECOMMENDATION

_____ has my permission to write a letter of

Name

recommendation to: _____

Name

Address

Address

City, State, Zip

The above listed person has my permission to include in this letter information from my education records.

I waive ____ do not waive ____ the right to review a copy of this letter at any time in the future.

Student's Signature

Date

Student's Name Printed