



NORTH CAROLINA AGRICULTURAL AND TECHNICAL STATE UNIVERSITY

SEC. II—ALL—FERPA 1.0

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974, AS AMENDED (FERPA)

ADMINISTRATIVE POLICY

FACULTY HANDBOOK

APPENDIX G

I. Policy

It is the policy of North Carolina Agricultural and Technical State University (the University) that students be accorded the full legal rights provided them under FERPA. FERPA provides each student with the right to:

1. Inspect and review the student's education records;
2. Seek amendment of the student's education records that the student believes to be inaccurate, misleading, or otherwise in violation the student's privacy rights;
3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that federal law authorizes disclosure without consent; and
4. File with the U.S. Department of Education a complaint concerning alleged failures by the University to comply with federal law.

II. Definitions

- A. For purposes of this policy, a “student” is any individual who is, or has been, in attendance at the University.
- B. “Education records” are those records directly related to a student that are maintained by the University. Education records do not include:
1. Records of institutional, supervisory, and administrative personnel that are in the sole possession of their maker and are not revealed to anyone else except a substitute.
 2. Records created and maintained by the University Police Department for law enforcement purposes.
 3. Records relating solely to an employee of the University in the individual’s capacity as an employee that are not available for any other purposes. (however, records relating to a University student who is employed because of his or her status as a student are education records.)
 4. Student medical records created, maintained and used only in connection with provision of medical treatment to the student that are not disclosed to anyone other than the individuals providing treatment.
 5. Records that contain only information relating to a person after he or she is no longer a student, such as alumni records.
- C. “Directory information” means information contained in a student’s education records that would not generally be considered harmful or an invasion of privacy if disclosed. At this University, directory information is defined as:
1. Name
 2. Address (permanent and mailing)
 3. College or School
 4. Major
 5. Class
 6. Email address (University and home)
 7. Dates of attendance
 8. Enrollment status
 9. Telephone number
 10. Date of birth
 11. Participation in officially recognized activities
 12. Degrees and awards received
 13. Weight and height of athletes
 14. Most recent previous educational institution(s) attended
 15. Anticipated date of graduation

Directory information does not include a student’s social security number or Banner number.

- D. For the purposes of this policy, “personally identifiable information” means such information as the name of the student, his or her parent, or a member of the student’s family; the address of a student or a member of the student’s family; a

personal identifier such as the student's social security number or student ID number; list of personal characteristics from which the student can be easily identified; or other information from which the student can be easily identified.

III. The Student's Right to Inspect His or Her Education Records

- A. A student has the right to inspect and review his or her education records.
- B. A student is not permitted to inspect the following records:
 - 1. Financial records and statements of his or her parents.
 - 2. Confidential letters and confidential statements of recommendation that were placed in his or her education records before January 1, 1975, and that are used only for the purposes for which they were intended.
 - 3. Confidential letters and confidential statements of recommendation concerning (a) admission to an educational institution; (b) an application for employment; or (c) the receipt of an honor that were placed in his or her education records after January 1, 1975, where the student has waived his or her right to inspect those letters and statements.
- C. A student who wishes to inspect his or her education records must file a written request for inspection with the Office of the Registrar.
 - 1. Within 45 days the Office of the Registrar will make the records available to the student. A student who exercises the right to review his or her education records is also entitled to a response by the University to reasonable requests for explanations and interpretations of those records.
 - 2. If a student has asked to inspect or review his or her education records, none of those records shall be destroyed until the student's request to inspect or review has been honored.
 - 3. If circumstances would otherwise effectively prevent the student from exercising the right to inspect and review the student's education records, the University will (a) provide the student with a copy of the records requested; or (b) make other arrangements for the student to inspect and review the requested records.

IV. The Student's Right to Seek Correction or Amendment of His or Her Education Records.

- A. A student who believes that information contained in his or her education records is inaccurate or misleading or violates his or her privacy rights may discuss these concerns with the person who maintains the record in question (records custodian). If the records custodian agrees with the student, the record will be amended. If the records custodian does not agree with the student, the records custodian will notify the student of his or her right to a formal hearing. This section does not apply to grade disputes, which should be addressed according to the procedures provided in the grade appeal procedures of the relevant College or School or the Graduate Student Appeals policy.

- B. A student's request for a formal hearing must be submitted within fifteen (15) days after the student receives notice from the records custodian of his or her right to a formal hearing and must be addressed to the Registrar. The request for hearing must be written, be signed by the student, and contain a written statement setting forth the nature of the student's complaint and the attempts the student has made to resolve the matters.
- C. A hearing will be held on the matter by the Registrar or the Registrar's designee within a reasonable time after receipt of the student's request and the student will be given reasonable notice of the date, place and time of the hearing.
- D. The student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the complaint and may be assisted by individuals of the student's choice at his or her own expense, including an attorney.
- E. The decision will be based solely on the evidence presented at the hearing, shall be in writing, and will summarize the evidence and state the reason for the decision. If the decision is in favor of the student, the education records will be amended accordingly. If the decision is unsatisfactory to the student, he or she may place with the education record a statement explaining the student's position with respect to the record. Such statement will be maintained as part of the student's education record and released with the record anytime the record is released to third parties.
- F. The student will receive the written decision within a reasonable period after the conclusion of the hearing.
- G. The decision of the Registrar or designee is final. A student who believes the outcome of a hearing to amend his or her education records was unfair or not in keeping with the provisions of FERPA may file a complaint with the U.S. Department of Education in accordance with Section VII of this policy.

V. Disclosure of Personally Identifiable Information from a Student's Education Records.

- A. With certain exceptions, listed in Subsection C, the University will not disclose personally identifiable information from a student's education records without the student's prior written consent. To be effective, the written consent must be signed and dated by the student and must include:
 - 1. A specification of the records to be disclosed;
 - 2. The purpose of the disclosure; and
 - 3. The party or class of parties to whom the disclosure may be made.

- B. When personally identifiable information is disclosed from a student's education records pursuant to his or her written consent, the student may also obtain a copy of the information disclosed, upon request.
- C. The University may disclose personally identifiable information from a student's education records without the student's prior written consent if the disclosure meets one or more of the following conditions:
1. The disclosure is to other school officials, including teachers, officials, and employees of the University, who are determined to have a legitimate educational interest in the information. School officials are deemed to have a legitimate educational interest in the information if it is necessary or desirable for them to obtain the information to carry out their official duties and/or to implement the policies of the University.
 2. The disclosure is, subject to the requirements of 34 C.F.R. § 99.34, to officials of another school or school system in which the student seeks or intends to enroll, or where the student is already enrolled, and the disclosure is for purposes related to the student's enrollment or transfer.
 3. The disclosure is, subject to 34 C.F.R. § 99.35, to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or State and local educational authorities.
 4. The disclosure is in connection with financial aid for which the student has applied or which the student has received. Information may be disclosed under this provision only if the information is necessary to determine the student's eligibility for financial aid; to determine the amount of the aid; to determine the conditions for the aid; or to enforce the terms and conditions of the aid.
 5. The disclosure is to State and local officials or authorities to whom this information is specifically allowed to be reported or disclosed
 - a. Pursuant to state statute adopted before November 19, 1974, if the allowed reporting or disclosure concerns the juvenile justice system and that system's ability to effectively serve the student whose records are released; or
 - b. Pursuant to state statute adopted after November 19, 1974, subject to the requirements of 34 C.F.R. § 99.38.
 6. The disclosure is to organizations conducting studies for, or on behalf of, the University to:
 - a. Develop, validate, or administer predictive tests;
 - b. Administer student aid programs; or
 - c. Improve instruction.

Records disclosed under this provision: (i) must not permit identification of either a student or parent except to those having a legitimate interest in the information; (ii) must be destroyed when no longer needed for the study; and (iii) must be disclosed pursuant to a written agreement that specifies the purpose, scope, and duration of the study, as well as

addresses the limitation on the disclosure of personally identifying information.

7. The disclosure is to accrediting organizations to carry out their accrediting functions.
8. The disclosure is to the student's parents if the student is their dependent for federal income tax purposes. For the purposes of this provision, "parent" includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.
9. The disclosure is to comply with a judicial order or lawfully issued subpoena or consists of relevant information provided to a court in association with litigation between the University and the student.
10. The disclosure is in connection with a health or safety emergency and the information is necessary to protect the health or safety of the student or others.
11. The disclosure is information the University has designated as "directory information" in Section II.C of this policy, unless the student has submitted a Non-Disclosure of Academic Records form to the Office of the Registrar during the first week of matriculation at the University, in order to have directory information withheld.
12. The disclosure is to the victim of an alleged perpetrator of a crime of violence or a non-forcible sexual offense, as defined in 34 C.F.R. § 99.39. The disclosure may only include the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense. The final results of the disciplinary proceeding may be disclosed, regardless of whether the violation was found to have been committed.
13. The disclosure is in connection with a disciplinary proceeding at the University. The University must not disclose the final results of the disciplinary proceeding unless it determines that (a) the student is an alleged perpetrator of a crime of violence or non-forcible sex offense; and (b) with respect to the allegation made against him or her, the student has committed a violation of the University's rules or policies. The University may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student. This section applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.
14. The disclosure is to a parent of a student 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 (a) the University determines that the student has committed a disciplinary violation with respect to that use or possession; and (b) the student is under the age of 21 at the time of the disclosure to the parent.
15. The disclosure concerns sex offenders and other individuals required to register under 42 U.S.C. § 14071 and the information was provided to the University under 42 U.S.C. § 14071 and applicable federal guidelines.

- D. The University must use reasonable methods to identify and authenticate the identity of parents, students, school officials, and any other parties to whom the University discloses personally identifiable information from education records.
- E. With the exception of requests from or disclosures to (1) the student; (2) a party with written consent from the student; (3) a school official pursuant to Section V.C.1; (4) a party seeking directory information pursuant to Section V.C.6; or (5) a party seeking or receiving records in accordance with Section V.C.9 where the conditions in 34 C.F.R. § 99.31(a)(9)(ii)(A)-(C) are met, the Office of the Registrar will maintain a record of each request for access to and each disclosure of education records, as well as the names of State and local educational authorities and federal officials and agencies referenced in Section V.C.3.
 1. The Office of the Registrar will maintain such records with the education records of the student as long as the records are maintained.
 2. For each such request or disclosure the record must include: (a) the parties who have requested or received personally identifiable information from the education records; (b) the legitimate interests the parties had in requesting or obtaining the information.
 3. The Office of the Registrar must obtain a copy of the record of further disclosures made by State and local educational authorities and federal officials and agencies referenced in Section V.C.3.
 4. The Office of the Registrar must record the following information when it discloses personally identifiable information from education records under Section V.C.10: (a) the articulable and significant threat to the health and safety of a student and other individuals that formed the basis for the disclosure; and (b) the parties to whom the University disclosed the information.

VI. Limit to FERPA Protection of Education Records

- A. FERPA's protection of personally identifiable information in a student's education records ends at the time of a student's death. Unless information is presented to the contrary, it can be presumed that a student is deceased 75 years after the student's education records were created. Thereafter the student's records will be open.
- B. Neither the foregoing policy concerning the duration of FERPA protection to education records that are in existence nor any other part of these policies and procedures places any obligation the University to maintain specific education records for which there is no pending student request to inspect or to amend.

VII. Complaints to the U.S. Department of Education

A student who believes the University has violated FERPA or the regulations promulgated thereunder may make a complaint in writing to Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington D.C.

20202-8520 within 180 days of the date of the alleged violation or the date the complainant knew or reasonably should have known of the alleged violation.

Approved by the Chancellor

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