

Dear Student,

The [Family Educational Rights and Privacy Act](#) (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protect the privacy of eligible students with respect to their educational record. The law is applicable to any school that receives funds under applicable program of the U.S. Department of Education, such as The University of Texas at El Paso (“University”). An eligible student is defined as anyone 18 yrs. of age or older or a student that attends a postsecondary institution regardless of age. FERPA affords students certain rights with respect to their education records. *The Annual Notice of Student’s Rights under FERPA* outlines the rights under FERPA, exceptions to FERPA that allows the release of educational records without student consent and the right to withhold directory information from release by UTEP.

UTEP has adopted the following policy and access rights applicable to educational records maintained by the University, students are informed of their rights under this law through the [Educational Records](#) policy found in the Handbook of Operating Procedures.

Policy

FERPA provides students the following rights with respect to their Education Records:

1. to inspect and review their Education Records;
2. to consent to disclosure of their Education Records to third parties, except to the extent that FERPA authorizes disclosure without consent;
3. to request amendment of their Education Records to ensure the records are not inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA;
4. to be notified of their privacy rights under FERPA; and
5. to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with the requirements of FERPA.

Definitions

"Directory Information" means information in a student's Education Record that would not generally be considered harmful or an invasion of privacy if disclosed. The University designates the following information about a student as Directory Information:

- name;
- local and permanent address;
- email address;
- telephone number;
- field of study; dates of attendance;

- enrollment status;
- student classification (example: freshman, first year law school student);
- degrees awarded;
- certificates and awards (including scholarships) received; • photographs;
- participation in officially recognized activities and sports;
- weight and height of members of athletic teams; and
- most recent previous educational agency or institution attended.

"Education Records" are records directly related to a student that are maintained by or on behalf of the University, as well as Personally Identifiable Information about a student that is derived from an Education Record. Electronic records such as emails or other electronic documents may also qualify as Education Records. Education Records do not include:

- Records of instructional, administrative, and educational personnel that are in the sole possession of the maker (i.e. file notes of conversations); are used only as a personal memory aid; not intended to be accessible or revealed to any individual except, in the case of an instructor, a temporary substitute;
- Law enforcement records of the University campus police;
- Medical records and mental health records, including counseling records created, maintained, and used only in connection with provision of medical treatment or mental health treatment or counseling to the student, that are not disclosed to anyone other than the treatment facility;
- Employment records unrelated to the student's status as a student; or
- Alumni records.

"University Official with a Legitimate Educational Interest" is any person employed by the University in an administrative, supervisory, academic, or support staff position, including law enforcement unit and health staff; a person or company with whom the University has a contract or affiliation (such as a UT System attorney or auditor, or a clinical facility where a student is participating in an internship); the University of Texas System Board of Regents; a person employed by System Administration; or a person assisting another University official in performing his or her tasks (such as a volunteer or committee member), if that person or contractor requires access to an Education Record in order to fulfill his or her professional responsibility on behalf of the University.

Procedure

1. Right to Inspect and Review the student's Education Record

Students can submit a written request to the Vice President for Business Affairs that identify the record(s) they wish to inspect. Educational records covered by FERPA will be made available

within 45 days of the request. The Vice President for Business Affairs will make arrangements for access and notify the student of the time and place where records may be inspected.

Students may also contact the Registration and Records Office directly for certain records listed below:

- Transcripts: available online at utep.edu/register under “Transcripts” or in-person at Mike Loya Building, Room 107, Monday-Friday, 8am to 5 pm.
- Enrollment Verification: available online at utep.edu/register under Student Forms “Enrollment Verification Form” or in-person at Mike Loya Building, Room 107, Monday-Friday, 8 am to 5 pm.

Limit on Right to Inspect – the following materials from a student’s educational record are exempt from review:

- Financial information submitted by the student's parents;
- Confidential letters and recommendations associated with admissions, employment or job placement, or honors, to which the student has waived rights of inspection and review, or which were made part of the student’s Education Records prior to January 1, 1975, provided those letters were collected under established policies of confidentiality and used only for the purposes for which they were collected;
- Education Records containing information about more than one student, in which case the University will permit access only to that part of the record that pertains to the requesting student; and
- Records that are subject to an attorney-client privilege which belongs to the University.

2. Right to Consent to Disclosure of Education Records

The University will not disclose Education Records, or Personally Identifiable Information from an Education Record, to a third party without prior consent of the student, except as authorized by FERPA and this policy. Student may submit the Student Authorization to Release Education Records found at utep.edu/register under Student Forms-FERPA Forms electronically to records@utep.edu or in-person at the Registration and Records Office located in the Mike Loya Academic Services Building, Room 107. Services are available Monday-Friday, from 8:00 am to 5:00 pm.

Exceptions to the consent requirement:

As provided under FERPA, the University may disclose Education Records without student consent as follows:

- a) Directory Information

Directory information may appear in public documents and may otherwise be disclosed without student consent, unless a student submits a written request to the Registration and Records Office during the first twelve (12) days of class of a fall or spring semester, the first four (4) class days of a summer semester, or the first three days of any quarter, to withhold such information from disclosure. Request for Non-Disclosure of Directory Information can be found at utep.edu/register under Student Forms-FERPA forms. Signed form can be submitted electronically to records@utep.edu or in-person at Mike Loya Academic Services Building, Room 107. A request to withhold directory information will remain in place until you rescind it and applies to publications such as UTEP's directory, graduation program, and requests for educational verification from potential employers and other parties. Upon graduation or termination of your enrollment for any reason, the directory information selection in place at the time will remain in place unless you submit a written notification to Registration and Records Office either electronically at records@utep.edu or in-person.

b) University Officials with a Legitimate Educational Interest

University officials with a Legitimate Educational Interest in an Education Record are allowed access without need for prior consent. Inter-institutional disclosures may also be made between institutions that administer or participate in joint programs or activities, in accordance with legitimate educational interest criteria. For example, an Education Record about a student concurrently enrolled in the University and another institution, or who receives services from the University and from another institution, may be disclosed by the University to the other institution under this subsection. This includes services provided by the University and institutions participating in distance education classes.

c) Other Institutions

The University may release a student's Education Records to officials of another educational institution at which the student is intending to enroll, or is enrolled.

d) Audit or Evaluation of Federal or State Education Programs

The University of Texas System Board of Regents, authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, and state and local educational authorities who are authorized by law to audit and evaluate a Federal or State supported education program, or to enforce Federal law which relates to such education programs, or their authorized representatives may access an Education Record as required for the audit, evaluation or enforcement purpose.

e) Financial Aid

The University may release an Education Record to persons or organizations in connection with that student's application for, or receipt of, financial aid to the extent necessary for such purposes as determining eligibility, amount, conditions, and enforcement of terms or conditions of such financial aid.

f) State and Local Officials Pursuant to Statute Concerning Juvenile Justice

The University may release Education Records to state and local officials that are authorized by statute to access student Education Records to efficiently serve the student.

g) Organizations Conducting Studies

Organizations conducting studies for, or on behalf of the University for the purpose of developing, validating, or administering predictive tests, administering student aid programs, and improving instruction, may access Education Records for such studies provided that the study is conducted in a manner which will not permit the personal identification of students and/or their parents by individuals other than representatives of the organization; and the information will be destroyed when no longer needed for the purposes of the study. The term "organizations" includes, but is not limited to, Federal, State, and local agencies, and independent organizations.

h) Accrediting Organizations

Accrediting organizations may access an Education Record required to carry out their accrediting functions.

i) Designated Parents of a Tax Dependent

A parent of a student who is a dependent for federal tax purposes, as defined by Section 152 of the Internal Revenue Code of 1954, may access the student's Education Records if the student provides a written designation that permits such access. If a tax dependent student's parents are divorced, both parents may have access to the student's Education Records, so long as at least one parent is designated by the student.

j) Judicial Order or Subpoena

Student Education Records may be disclosed to comply with a judicial order or lawfully issued subpoena. The University must make a reasonable effort to notify the student of an order or subpoena before complying with it, except that the University shall not notify a student of a subpoena if it is from a federal grand jury or is for law enforcement

purposes, and the subpoena or order requests the University not to disclose to any person the existence or contents of the subpoena or any information furnished in response to the subpoena. Education Records may also be disclosed to the U.S. Attorney General, or his or her designee, in response to an ex parte order concerning an authorized investigation or prosecution of domestic or international terrorism, without prior notice to the student.

k) Health and Safety

The University may disclose student information as deemed necessary by the University in connection with an emergency and need to protect the health and safety of the student or other individuals.

l) Disciplinary Hearing Results

i. Disclosure to Victims

The University may disclose to an alleged victim of any crime of violence or a non-forcible sex offense (as those terms are defined in 34 C.F.R. 99.39), the final results of any disciplinary proceeding conducted by the University against the alleged perpetrator of such crime or offense, regardless of whether the alleged perpetrator was found responsible for the crime or offense by the University.

ii. Disclosure to Third Parties

The University may disclose the final results of any disciplinary proceeding against a student who is an alleged perpetrator of any crime of violence or a non-forcible sex offense (as those terms are defined in 34 C.F.R. 99.39), if the student is found responsible for violating the University's rules or policies with respect to such crime or offense. Such disclosure shall include only the name of the student, the violation committed, and any sanction imposed by the University on that student. Such disclosure may include the name of any other student, such as a victim or witness, only with the written consent of that other student.

iii. Alcohol and Drug Violations

The University may disclose to a parent or legal guardian of a student, information regarding any 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, regardless of whether that information is contained in the student's Education Records, if the student is under the age of 21 at the time of disclosure to the parent, and the University determines that the student is responsible for a disciplinary violation with respect to such use or possession.

m) Defense of Litigation or Complaints against the University

If a student initiates legal action against the University, the University may disclose to the court or agency with jurisdiction over the complaint, without a court order or subpoena, the student's Education Records determined to be relevant by the University and necessary for its defense.

n) Disclosures Concerning Sex Offender Registration Status

The University may disclose information concerning a student's status as a sex offender or other individual required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to the University under 42 U.S.C. 14071 and applicable Federal guidelines.

3.Right to Requests to Amend Records

A student who believes that an Education Record maintained about the student is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA, may request amendment of the record. However, a faculty member's judgment related to a student's work, expressed in grades, evaluations, etc., is not within the purview of this right.

A student may informally request the opportunity to discuss amendment of the record with the University office concerned with the particular record. If agreement is reached with respect to the student's request, the appropriate records will be amended. If the record is not amended pursuant to the student's request, the University will inform the student of its decision and the student's right to request a formal hearing.

Request for a hearing must be made in writing to the Vice President for Business Affairs, who within a reasonable period of time after receiving such request, will inform the student of the date, place, and time of the hearing. The hearing officer who will adjudicate such challenges will be appointed by the President.

The student may present evidence at the hearing relevant to the issues raised and may be assisted at the hearing by a representative(s) of the student's choice, including legal counsel, at the student's expense.

The decision of the hearing officer shall be final (except as noted in 6.5.1.7), shall be based solely on the evidence presented at the hearing, shall consist of a written statement summarizing the evidence and stating the reasons for the decision, and shall be delivered to all parties concerned.

If the decision is in favor of the student, the Education Record will be corrected or amended in accordance with the decision of the hearing officer.

If the decision is that the Education Record will not be amended/corrected, the student may place with the Education Record a statement commenting on the information in the record, and/or a statement of the reasons why the student disagrees with the hearing officer's decision. The statement will be maintained as part of the student's Education Records, and included whenever the Education Record in question is disclosed.

Students who believe that the adjudications of their challenges were unfair or not in keeping with the provisions of FERPA, may request, in writing, assistance from the President of the University.

4. Right to File a Complaint for Alleged FERPA violation

Students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education 400
Maryland Avenue, S.W.
Washington, DC 20202-5901