

# FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

**Approved by:** FERPA is a federal law

**History:** Established in 1974 | amended nine times

**Related Forms, Procedures and References:** Types, Locations and Custodians of St. Catherine University Education Records (<https://www.stkate.edu/policies/ferpa/>) | Non-Disclosure of Directory Information form (<https://www.stkate.edu/academics/academic-resources/registrar/forms/>) | U.S. Department of Education FERPA Website (<http://www.ed.gov/policy/gen/guid/fpco/ferpa/>)

**For Questions Contact:** Office of the Registrar | 651.690.6531 | Student Affairs | 651.690.6778

**Purpose:** The Family Educational Rights and Privacy Act (FERPA) is a federal law designed to protect the privacy of education records; to establish the right of students to inspect and review their education records; and to provide guidelines for the correction of inaccurate and misleading data through informal and formal hearings. What this means is that, in general, no one may release information from the student record to a third party, including parents, without written permission from the student.

FERPA was established by the federal government in 1974 and applies to all institutions receiving federal funding. It applies to both K-12 and post-secondary institutions, but students have different rights in K-12 than when in college.

FERPA, along with the State of Minnesota Data Privacy Act, forms the backdrop for the University's policy on student records.

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## I. Rights and Responsibilities under FERPA

### A. Students

1. Students have the right to inspect and review the education records the University maintains on them.
2. Students have a right to request corrections to education records that they believe are inaccurate, misleading, or in violation of their privacy rights. The procedure for the correction of records can be obtained by contacting the Registrar.
3. Students have the right to consent to disclosure of personally identifiable information. Students who elect to give parents access to their billing information should use the Consent to Release Information form.
4. Students have a right to know what an institution has designated as public/directory information and the right to limit the release. Students must submit the Non-Disclosure of Directory Information form to suppress their personal information.
5. Students have a right to know school officials may access their records and the criteria for determining that a school official has a legitimate need to know the information.
6. Students can file a complaint with the Family Policy Compliance Office in the U.S. Department of Education if they believe information has been disclosed without their consent or withheld from review. This complaint must be in writing, be within 180 days of the alleged offense and contain the specifics of the incident. The address for submitting complaints is:

Family Policy Compliance Office  
U.S. Department of Education  
130 Coffey Hall  
400 Maryland Ave. S.W.  
Washington, D.C. 20202-5920

### B. Parents

1. The same laws that give parents and students access to and control over a child's educational records during elementary and high school transfer ownership of the records to the *student* at the college level.
2. According to FERPA, students attending a college or university determine who will receive information about them. Under this law, parents who want to receive a copy of their student's academic or financial records can do so if their student signs a release form.

### C. Faculty and Staff

1. Faculty and staff should never give students a copy of a class list, grade sheet, or any confidential document that contains references to other students, even when that document is provided in a sealed envelope.
2. Faculty and staff must never make grades or graded work publicly available in a manner that identifies individual students.
3. Faculty and staff must never leave graded student papers, exams or business-related documents unsupervised or in common areas for distribution or pick-up, even if contained in a sealed envelope.
4. Unless *specifically* authorized in writing to provide a student's information to a parent, spouse or other third party, faculty and staff may not release *non-directory* information. If necessary,

the faculty or staff member may refer the person requesting the information to the Dean of Student Affairs or the Registrar.

5. Faculty and staff are cautioned not to even release *directory information* until they have accessed the student's record in Gateway or Banner. If the following message is displayed - *Confidential Information for (name of student)* - the proper response to inquiries is, "I have no information about that individual."

## II. Definition of Terms

### A. Student

1. Any person who attends or has attended St. Catherine University.

### B. Directory Information

1. The information the University collects and maintains about students falls into one of two categories: directory information and non-directory information. Directory information is defined as information that would not generally be considered harmful or an invasion of the student's privacy if disclosed.
2. Unless restricted by the written request of a student, the University may release directory information without the prior consent of a student.
3. Information that is not directory information, unless excepted by FERPA, requires the prior written consent of the student for release. Prior written consent is required for disclosures to all non-University entities, including parents.
4. Directory information required for classroom participation may not be withheld from faculty and students connected with the particular course.
5. St. Catherine University has designated the following items of student information as directory information:
  - a. name
  - b. address
  - c. telephone number
  - d. e-mail address
  - e. date and place of birth
  - f. major field of study
  - g. participation in officially recognized activities and sports
  - h. weight and height of members of athletic teams
  - i. dates of attendance (semester and year)
  - j. full- or part-time status
  - k. degrees and awards received
  - l. Latin honors received
  - m. most recent previous school attended
  - n. photograph

### C. Education record

1. Education records are records (in handwriting, print, tapes, film, computer, or other media) that are maintained by St. Catherine University, or an agent of the University, and that are directly related to a student and from which students can be personally (individually) identified.
2. FERPA makes the following exceptions to its definition of education records.

- a. Personal records that are kept in the sole possession of the maker and are not accessible or disclosed to any other person, except a temporary substitute for the maker of the record
- b. Records created and maintained for law enforcement purposes
- c. Employment records, unless employment is contingent on student status
- d. Records created and maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, if the records are used only for the treatment of a student and made available only to those persons providing the treatment
- e. Alumni records, which are created and maintained about a student after he or she is no longer in attendance at the University and which are not related to the individual's attendance as a student

### D. Personally identifiable information (PII)

Personally identifiable information includes but is not limited to:

1. Name of the student, student's parent(s) or other family member(s)
2. Address of the student or student's family
3. A personal identifier, such as the student's social security number, student ID or biometric record
4. Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name
5. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

### E. Legitimate Educational Interest

1. Information may be shared among education officials within the University only when a legitimate educational interest exists for the disclosure of specific information.
2. A legitimate educational interest exists when a school official demonstrates a need to know specific information to accomplish instructional, advisory, administrative, research, supervisory, or other administrative responsibilities assigned by the University.

### F. School Officials

1. School officials may include employees, faculty, staff, designated representatives of the University, members of the Board of Trustees, students serving on official committees, students assisting another school official in performing her or his tasks, and contractors, consultants, volunteers, and other outside service providers used by an institution to perform institutional services and functions that it would otherwise perform itself.

## III. Possible Federal and State Data Collection and Use

As of January 3, 2012, the U.S. Department of Education's FERPA regulations expand the circumstances under which education records and personally identifiable information (PII) contained in such records —

including Social Security Number, grades, or other private information – may be accessed without the student's consent.

First, the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or state and local education authorities ("Federal and State Authorities") may allow access to education records and PII without the student's consent to any third party designated by a Federal or State Authority to evaluate a federal- or state-supported education program. The evaluation may relate to any program that is "principally engaged in the provision of education," such as early childhood education and job training, as well as any program that is administered by an education agency or institution.

Second, Federal and State Authorities may allow access to education records and PII without the student's consent to researchers performing certain types of studies, in certain cases even when the educational institution objects to or does not request such research. Federal and State Authorities must obtain certain use-restriction and data security promises from the entities that they authorize to receive a student's PII, but the Authorities need not maintain direct control over such entities.

In addition, in connection with Statewide Longitudinal Data Systems, State Authorities may collect, compile, permanently retain, and share without the student's consent PII from education records, and they may track the student's participation in education and other programs by linking such PII to other personal information about the student that they obtain from other Federal or State data sources, including workforce development, unemployment insurance, child welfare, juvenile justice, military service, and migrant student records systems.

#### IV. Correction of Education Records

Students have the right to ask to have record corrected if they believe that the records are inaccurate, misleading or in violation of their privacy rights. The procedure for correcting education records is as following.

1. A student must request in writing of the appropriate custodian to amend a record. In so doing, the student should identify the part of the record she or he wants changed and specify why it is believed to be inaccurate, misleading or in violation of her or his privacy or other rights.
2. The University may comply with the request or it may decide not to comply. If it decides not to comply, the University will notify the student of the decision at her or his last known address of record and advise the student of the right to a hearing to challenge the information believed to be inaccurate, misleading or in violation of the student's rights.
3. A written request for a hearing must be submitted to the appropriate records custodian. The University will arrange for a hearing on the matter and will notify the student, reasonably in advance of the hearing, of the date, place and time that the hearing will be held.
4. The hearing will be conducted by a hearing officer who has no direct interest in the outcome of the matter to be decided; however, the hearing officer may be an official of the institution. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The student may be assisted by one or more individuals, including an attorney.
5. The hearing officer will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. A copy of the written decision will be provided to the student at her or his last known address of record within a reasonable time after the

hearing, usually 10 business days unless circumstances require a longer period for a decision to be prepared.

6. If the hearing officer decides that the challenged information is not inaccurate, misleading or in violation of the student's right of privacy, she or he will notify the student of the right to place in the education record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
7. The statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the University discloses the contested portion of the record, it must also disclose the student's statement.
8. If the University decides that the information is inaccurate, misleading or in violation of the student's right of privacy, it will amend the record and notify the student, in writing at her or his last known address of record, that the education record has been amended.

#### V. Release of Information

St. Catherine University will disclose information from a student's education records only with the written consent of the student, except that the records may be disclosed without consent when the disclosure is:

1. To school officials who have a legitimate educational interest in the records. The determination as to whether or not a legitimate educational interest exists will be made by the custodian of the records on a case-by-case basis. When the custodian has any question regarding the request, the custodian should withhold disclosure unless the custodian obtains consent from the student, or the concurrence of a supervisor or other appropriate official that the record may be released.
2. To officials of another school, upon request, in which a student seeks or intends to enroll or is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer. The student shall receive notification of the disclosure unless the student initiated the disclosure.
3. To authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education or State and local educational authorities, such as a State postsecondary authority that is responsible for supervising the University's State-supported education programs. Disclosures under this provision may be made, subject to the conditions in 34 CFR § 99.35, in connection with an audit or evaluation of Federal or State supported education programs, or for the enforcement of or compliance with Federal legal requirements that relate to those programs. These entities may make further disclosures of personally identifiable information to outside entities that are designated by them as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.
4. To school officials or lending institutions, in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
  - a. determine eligibility for the aid;
  - b. determine the amounts of the aid;
  - c. determine the conditions for the aid; or
  - d. enforce the terms and conditions of the aid.
5. To organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating or administering predictive tests, administering student aid programs

and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations and such information will be destroyed when no longer needed for the purpose for which it is conducted.

6. To accrediting organizations in order to carry out their accrediting functions.
7. To parents of a dependent student, as defined in Section 152 of the Internal Revenue Code of 1954. Full rights under the act shall be given to either parent, unless the institution has been provided with evidence that there is a court order, state statute or legally binding document relating to such matters as divorce, separation or custody that specifically revokes those rights. St. Catherine University does not have an obligation to disclose any financial information about one parent to another. If a parent claims a student as a dependent and does not want his/her financial information disclosed to his/her spouse or former spouse, the parent may make that request to the institution.
8. In connection with an emergency, appropriate persons if the knowledge of such information is necessary to protect the health or safety of the student or others.
9. To comply with a judicial order or lawfully issued subpoena, provided the University makes a reasonable effort to notify the student of the order or subpoena in advance of compliance. Notification may be prohibited if the University receives a federal grand jury subpoena or any other subpoena which states that the student should not be notified.
10. To an alleged victim of any crime of violence as that term is defined in Section 16 of Title 18, United States Code, or a nonforcible sex offense, the final results of any disciplinary proceeding conducted by an institution of postsecondary education against the alleged perpetrator of that crime or offense with respect to that crime or offense.
11. To Veterans Administration Officials pursuant to 38 USC 3690 (c).
12. Information the University has designated as "directory information," unless a hold has been placed upon release of the information by the student.