



University Policy #1.02

Policy Name: Family Educational Rights and Privacy Act Policy and Notice of Rights
Issued By: Provost, and Chief Academic Officer
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Family Educational Rights and Privacy Act Policy and Notice of Rights

Policy Statement

The Family Educational Rights and Privacy Act (FERPA) requires educational institutions to annually notify students, in attendance, of their rights under the Act regarding access to their education records and certain protections regarding the privacy of personally identifiable information in those records. This policy is issued in compliance with that requirement.

I. Definitions

Directory information: means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

Disclosure: means to permit access to or the release, transfer or other communication of personally identifiable information contained in education records by any means to any party except the party identified as the party that provided or created the record.

Education records: means those records, regardless of how the information is recorded, that directly relate to a student and are maintained by this University or by a party acting for this University. However, it does not include:

- A. Records kept in the sole possession of the maker, that are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- B. Records of the University's law enforcement unit that are created by it for law enforcement purposes and maintained by it;
- C. Records relating to an individual who is employed by the University (except if the individual is a student employed as a result of his or her status as a student) that are made and maintained in the normal course of business, relate exclusively to the individual in that individual's capacity as an employee and are not available for any other purpose;

- D. Records on a student 18 years of age or older made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity so long as the records are made, maintained or used only in connection with treatment of the student and are disclosed only to individuals providing treatment;
- E. Records created or received by this University after the student is no longer in attendance and are not directly related to the individual's attendance as a student.

Personally Identifiable Information (PII): includes, but is not limited to: the student's name; name of parents or other family members; address; a personal identifier; other indirect identifiers (e.g., date and place of birth or mother's maiden name); other information that, alone, or in combination, is linked or linkable to a specific student and would allow a reasonable person who does not have personal knowledge of the relevant circumstances to identify the student with reasonable certainty; or information requested by a person who the University reasonably believes knows the identity of the student to whom the education record relates.

II. Process:

A. The right to inspect and review

Students have the right to inspect and review their education records within 45 days of the date the University receives a request for access. Students should submit to the Registrar a written request that identifies the record(s) they wish to inspect. The Registrar will decide for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the Registrar, that official shall advise the student of the correct official to whom the request should be addressed.

1. This right does not extend to the financial records, including any information those records contain, of the student's parents. Also, certain restrictions apply to a student's access to confidential letters and confidential statements of recommendation placed in a student's education records. Additionally, certain records may not be accessed by the student because they are excluded from FERPA's definition of "education records."
2. If circumstances effectively prevent the student from exercising this right to inspect and review his or her education records, the University will either provide the student a copy of the requested records or make other arrangements for the student to inspect and review them.

3. The University will not charge a fee to search for or to retrieve a student's education records, but may charge a fee for a copy of those records, unless doing so would in some way effectively prevent the student from exercising this right.

B. The right to seek an amendment of the student's educational records

A student has the right to seek an amendment to that student's education records if the student believes the record to be inaccurate, misleading, or in violation of the student's privacy rights.

1. Students desiring an amendment to one of their education records should write the University official responsible for maintaining the record, clearly identify the part of the record they want changed, and specify why it is inaccurate, misleading, or in violation of the student's privacy rights. The University will follow its internal processes to review any request for amendment. The University will respond to any such request within a reasonable time after receiving the request. The student requesting the amendment will receive a written response indicating the University's decision in the matter.
2. The student's right to seek amendment may not be used to challenge grades.

C. The right to a hearing regarding the request for an amendment

If the University decides not to amend the record as requested by the student, it will notify the student of that decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of this right.

1. If, as a result of the hearing, the University decides that an amendment is warranted, it will amend the record accordingly and will inform the student of the amendment in writing.
2. If, as a result of the hearing, the University decides that an amendment is not warranted, it will inform the student of the right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the decision of the University not to make the amendment, or both. Any such statement placed in the student's education record will be maintained with the contested part of the record for as long as the record is maintained, and it will be disclosed whenever the University discloses the portion of that record to which the statement relates.

D. The right to prevent disclosure of student's personally identifiable information

Students have the right to prevent the disclosure of personally identifiable information from their education records, except to the extent that FERPA and its implementing regulations authorize disclosures without consent.

1. Unless authorized by one of the FERPA exceptions, the University must obtain the written consent of a student before disclosing personally identifiable information contained in the student's education records. Where required, a student's consent must specify the records to be disclosed, state the purpose of the disclosure, and identify the party or class of parties to whom disclosure may be made. Upon request, a student will be provided with a copy of the records that he or she has consented to being disclosed.
2. The various circumstances under which FERPA permits the disclosure of a student's personally identifiable information without his or her consent include, but are not limited to, the following:
 - a. Nonconsensual disclosures are permitted to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff). It also includes a person serving on the University's governing board; a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks; or a contractor, consultant, volunteer or other party (such as an attorney, auditor, or collection agent) to whom the University has outsourced University services or functions that it would otherwise use employees to perform, provided that this outside party is under the direct control of the University with respect to the use and maintenance of education records and is subject to FERPA restrictions governing the use and re-disclosure of personally identifiable information from education records.
 - b. Nonconsensual disclosures are also permitted to parents in three situations.
 - i. Disclosure of a student's personally identifiable information to parents is permitted without a student's written consent if the University determines that there is an articulable and significant threat to the health or safety of the student or other individuals.
 - ii. Such disclosure is permitted to parents of the student if the parent provides documentation that the student is a dependent pursuant to Section 152 of the Internal Revenue Code of 1986 and notice is given to the student that a parent has requested such information.

- iii. Such disclosure is permitted if the student is under 21 at the time of the disclosure and the University has determined that the student has committed a disciplinary 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.

E. The right to opt out of the disclosure of directory information

Pursuant to FERPA, the University has classified certain personally identifiable information as directory information, which may be released without the student's consent.

1. This University defines directory information as: the student's name; local and home addresses; telephone number; e-mail address; place and date of birth; program of study; dates of attendance; enrollment status; participation in officially recognized activities; degrees, honors and awards received; and the location, training institution and medical specialty identified for postdoctoral education. A student ID number, user ID, or other unique personal identifier used by a student for purposes of accessing or communicating in electronic systems may also be deemed directory information, but only if that identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity (e.g., PIN or password). Any such means of authentication must only be known or possessed by the authorized user.
2. FERPA permits the University to limit the disclosure of directory information to specific parties, for specific purposes, or both. In the exercise of that authority, this University may release all directory information to school officials as defined in IV.B.1 above. Other releases will be limited to those situations in which the University, in its discretion, believes the release would recognize a student for academic or extracurricular achievement or otherwise advance the student's career interests or when the University believes the release would serve to advance the interests and image of the University. Examples of such releases would be the disclosure of directory information to prospective employers, financial aid and scholarship agencies or registry, licensure or certification services. Another example would be the release of directory information in connection with University-sanctioned alumni affairs. The University will not release directory information to persons or parties not affiliated with the University when their intent is to use that information for commercial purposes.
3. Students who wish to opt out of the release of some or all of their directory information must notify the Registrar in writing during the first ten academic days of each academic term. Upon receipt of such request, the Registrar will designate that portion of the student's directory information as confidential and not to be released outside this University except to individuals, institutions, agencies and organizations otherwise authorized by FERPA.

4. This University will honor all requests to withhold any of the categories of directory information listed in the written request, but will not assume any responsibility to contact the student for subsequent permission to release that information. Nondisclosure will be enforced until the student subsequently authorizes its release. A student may not, however, opt-out of the disclosure of the student's name, identifier or University e-mail address in a class in which the student is enrolled.
5. Regardless of the effect on the student, this University assumes no liability for honoring the request of the student to restrict the disclosure of directory information.

F. The right to file a complaint with the U.S. Department of Education

Students have the right to file a complaint concerning alleged failures by this University to comply with the requirements of FERPA. Students are encouraged to first allow the University to resolve the matter. Nevertheless, complaints may be sent to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, DC 20202-5920.

1. Statutory or Regulatory Reference:
 - i. [20 U.S.C. § 1232g](#)
 - ii. [34 CFR 99.7\(a\)\(2\)](#)

G. Faculty & Staff Annual Training Requirements

KCU employees must complete FERPA training annually via the FERPA Training Canvas Course. Employees can revisit this training at any time.

H. Response to FERPA Violations

The Office of the Registrar documents maintains records of FERPA violations in perpetuity. A part of this process is notifying affected students of an inadvertent disclosure and confirming that the information inadvertently disclosed has been returned/destroyed. Additionally, notes must be placed in affected student records permanently that briefly outline what information was inadvertently disclosed and the corrective steps that were taken (names are not used in these notes).

When the Office of the Registrar is notified of an inadvertent disclosure, the employee notifying the Registrar will be asked to complete a Report a FERPA Concern online form if it has not already been submitted, and the employee responsible for the inadvertent disclosure will be asked to review the Canvas course again.

In the event that an individual has multiple FERPA violations in a 12-month period, they will be asked to complete a separate quiz within the Canvas course.

In the event that an individual has three or more FERPA violations in a 12-month period related to the same manner of inadvertent disclosure, a Registrar staff member will schedule a meeting with the individual and their supervisor for FERPA training specific to the situation at hand.

Four or more repeat FERPA violations in the same manner by the same individual may be elevated to HR for further action.