The Family Educational Rights and Privacy Act (“FERPA”) establishes requirements for the protection of the privacy of student education records. The law applies to all institutions of higher education that receive funding under a program managed by the Department of Education (the “DOE”), including federal financial aid.

FERPA provides students of the University with the following three basic rights:

- The right to inspect and review their education records;
- An opportunity to have inaccurate or misleading information in their education records corrected; and
- The right to restrict access to personally identifiable information contained in their education records unless written consent is given or an exception applies.

The University has published Guidelines for Compliance with FERPA that can be found here (the “Guidelines”). For more information with respect to the University’s implementation of FERPA, we encourage you to read the Guidelines and complete the accompanying tutorial.

The University also is required to provide an annual notification to students of their rights under FERPA, and the FERPA regulations provide for specific disclosures that must be included in this notification. The University fulfills this requirement by placing an annual notice on the website of the Registrar, which can be found here.

Additionally, all faculty, administrators and staff receive an annual notice reminding them of their obligations under FERPA and advising them of any change in the law.
**Education Records**

FERPA defines the term "education records" broadly to mean any records that contain information directly related to a student and that are maintained by an educational institution or by a party acting for that institution. Records that are covered by FERPA may include information recorded in any medium, including not only formal student files such as those kept by the Registrar’s Office, but also email communications, electronic files, videos, photography and sound files.

FERPA explicitly excludes certain types of records, including, for example, private notes used only as a personal memory aid and that are not shared with or accessible by others; certain employment records relating only to an individual’s capacity as an employee, but excluding records relating to a job that a student has as a result of his or her status as a student; and records created after an individual is no longer a student in attendance that do not directly relate to the individual’s attendance as a student. For a more detailed description of records that are not covered by FERPA, and certain other exceptions, please see the Guidelines.

**Right of Review and Amendment**

Under FERPA, the University is required to provide students with an opportunity to inspect and review their education records within a reasonable period of time, not to exceed 45 days from the date of receipt of the student’s request. All requests for record reviews under FERPA must be made through the persons designated in the Guidelines. If a student believes that an education record contains information that is inaccurate or misleading, he or she has the right to request that the information be amended. This procedure allows students to challenge facts that they believe are inaccurately recorded, but may not be used to question substantive educational judgments that have been correctly recorded or to contest the assignment of a grade.

If the University declines to amend a student’s record as he or she requests, the student has the right to a hearing. If the University ultimately determines that the record does not require amendment, the student has the right to insert a statement in the record setting forth his or her views, which statement must remain with the record for as long as the record is maintained.

**Requirement of Consent to Disclosure**

The University also is restricted under FERPA from disclosing personally identifiable information contained in education records without student consent, subject to certain exceptions. For example, the University is allowed to disclose education records to school officials with legitimate educational interests; to the parents of a “dependent student” (as defined in the Internal Revenue Code); to accrediting, testing and similar organizations; and to certain federal, state, and local officials and authorities.

The University also is allowed to disclose certain information from an education
record that the University has designated as “directory information.” This information generally is defined by FERPA as information that would not normally be considered harmful or an invasion of privacy if disclosed, and may include, for example, name, dates of attendance, major field of study and degrees and awards received. The University must provide public notice of the types of information designated as directory information and the student’s right to restrict the disclosure of such information.

Please note that while the University is allowed to disclose personal information under one of these exceptions, it is not required to do so. For a full list of exceptions to the right of consent, as well as the types of information that the University has designated as directory information, please see the Guidelines.

Frequently Asked Questions

Below you will find the answers to some frequently asked questions regarding the application of FERPA:

**Question:** My office frequently receives requests from employers to confirm that an individual attended the University and to verify his or her dates of attendance. Am I allowed to disclose this information?

**Answer:** Under FERPA, without student consent, NYU is allowed to share information with third parties that it has designated as “directory information”, unless the student has asked the University not to do so. The specific categories of information that NYU has designated as directory information can be found in the Guidelines, and include the student’s name, dates of attendance and degree awarded. First, however, you should check the Biographical section of the Albert system to confirm that the student has not filed a request to restrict the University’s disclosure of his or her directory information.

**Question:** We received an information request from a journalist who is writing a favorable story about an NYU alumnus. Does FERPA still apply even though the student has already graduated?

**Answer:** The Guidelines provide an exception to the definition of education records for “records that contain information relating to an individual who no longer is a student at the University and that are not directly related to the individual’s attendance as a student, i.e., alumni records.” This means that records collected after a student has graduated and that do not relate to the student’s attendance as a student are not covered by FERPA; however, FERPA will continue to apply to all records relating to that individual’s attendance as a student regardless of when they were collected. For example, you would be allowed to share information collected by the Office of Alumni Relations about the individual (such as jobs held or awards achieved after graduation), but you would not be able to disclose the individual's transcript without his or her consent. Note that “directory information” about the individual may be disclosed without the individual’s consent, as further outlined in the
Question: I run a summer computer course in which high school students take non-credit classes at the University. I have been contacted by a parent of one of the students (who is 16), demanding information about the student’s performance while in the course. Can I share this information with the parent since the student is a minor?

Answer: All rights under FERPA transfer from parent to student when the student reaches 18 years of age or attends a postsecondary institution. This means that if a high school student takes classes at NYU, whether or not they are for credit, any education records maintained about that student by the University are covered by FERPA regardless of the student’s age because NYU is a postsecondary institution. Unless another exception applies, any disclosure of personal information from the student’s education records would require the student’s consent.

Note, however, that there is an exception under FERPA that allows the University to disclose personal information from education records to parents of dependent students. This right is not automatic. Under the Guidelines, the parent must first make the request in writing and provide evidence that the student is a dependent under the Internal Revenue Code of 1986. This is usually achieved by providing a redacted version of the parent’s latest federal income tax return. Note that it is still within the University’s discretion as to whether or not to make the information available to the parent and what information will be shared, and the University will typically inform the student of the request before making its decision.

Question: Another university has contacted my office requesting that we provide it with a transcript of a currently enrolled student. Can I provide them with the transcript or is this prohibited by FERPA?

Answer: This will depend on the reason that the other institution is requesting the information. As provided in the Guidelines, the University does not need to obtain a student’s consent “when forwarding education records to the officials of another institution…in which a student seeks or intends to enroll if that institution requests such records…provided that the disclosure is for purposes related to the student’s enrollment…” If the student is seeking or intending to enroll in the other institution and the other institution is seeking information for purposes related to the student’s enrollment at that institution, then you are permitted to provide the records requested by that institution. In other cases, however, you should obtain the student’s consent before disclosure.

Question: I am a faculty member and I have sent emails to another faculty member in my department relating to the conduct of one of our students. Can the student request copies of those emails under FERPA?

Answer: Yes. Education records are defined to include documents directly related to a student that are maintained by the University in any medium including email. All
emails are maintained on the University’s servers and thus would be considered education records if they directly relate to a student. The student has the right to review and inspect those emails by following the process outlined in the Guidelines. Please note that the Guidelines contain a Clarification for Faculty section, which covers a number of FERPA-related issues that may be of specific interest to faculty members.

**Further Resources**

We encourage you to read the Guidelines, which provide answers to many other FERPA-related questions that may arise during the ordinary course of University business. If you have any further questions about FERPA, or require assistance with interpretation or implementation of the Guidelines, please feel free to contact either the Office of the Assistant Provost or find a member of the Office of General Counsel who practices in this area by visiting our practice areas page and scrolling to “Privacy (including FERPA and HIPAA)”.