

STUDENT RECORDS POLICY

I. Policy Statement

Portland State University is required to comply with the federal Family Educational Rights and Privacy Act of 1974, as amended, and other federal and state laws governing access to and confidentiality of records and information pertaining to students. University employees should be mindful that only personal records demonstrably and substantially relevant to the educational and related purposes of the University, division, or department shall be generated and maintained; no student shall be required to provide, except voluntarily, information as to race, religion, sex, sexual orientation, gender identity, disability, national origin, marital status, political affiliation, personal values, except as required by state or federal law, rules or orders.

II. Reason for Policy/Purpose

Maintaining student records confidentiality/privacy is a legal and professional responsibility for institutions of higher education. Almost everyone employed by PSU will have access to protected student information at one time or another and so it is very important that all employees are trained to understand their obligation and to know what procedures to follow to ensure that student records are protected. This Student Records Policy is intended to inform students in particular, and others generally of student rights of privacy and access to their own education records, and to guide the University in its management of student records.

III. Applicability

This policy applies to all students, employees, schools, colleges, administrative units, school-affiliated organizations, committees and agents of the University.

IV. Definitions

- 1.0 Act;** the Family Educational Rights and Privacy Act of 1974, as amended, commonly known as FERPA, and its implementing regulations, and any official guidance issued by the U.S. Department of Education.
- 2.0 Directory Information;** includes a student's current first, middle, last and preferred first name, the @pdx.edu email address, dates and/or terms of attendance, major or minor field of study, degrees and awards received, term of application for graduation, number of

credits earned, class level, dates of employment, status as a graduate assistant, including work assignment and FTE; participation in officially recognized activities and sports, weight and height of members of athletic teams, and the fact of enrollment (i.e. full-time, three-quarter-time, half-time, less than half-time, or part-time).

3.0 Education records; as defined in the Act, those records that are 1) directly related to a student and 2) are maintained by the University or by a party acting for the University.

3.1 The term “education records” does not include:

(A) Sole possession records that are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other person, with the exception of a temporary substitute for the maker of the record;

(B) Records of the Campus Public Safety Office (CPSO), where the records are maintained by CPSO and created by CPSO for law enforcement purposes;

(C) Employment records related to an individual who is employed by the University, unless the individual is in attendance at the University and is employed as a result of his or her status as a student;

(D) Medical or Treatment records concerning a student as long as they are 1) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity, 2) used in connection with treatment of the student, or 3) and are not available to anyone (including the student) other than individuals providing treatment. If medical or treatment records are shared with school officials with legitimate educational interest, in accordance with the Student Health and Counseling Center’s patient confidentiality practices, they become ‘education’ records. In cases involving student litigation, in the absence of a court order or written consent, medical or treatment records will not be shared with attorneys or courts unless the litigation in question relate directly to the medical treatment itself or the payment for that treatment.

(E) Records that only contain information about an individual after he or she is no longer an enrolled student at the University (e.g., information collected by the Alumni Association).

(F) Grades or peer graded work before collected and recorded by anyone.

4.0 Legitimate educational interest; a reasonable “need to know” information in the course of carrying out one’s professional duties.

5.0 Personally identifiable information; includes, but is not limited to:

- (A) the student's name;
- (B) the name of a student's parents or other family members;
- (C) the address of the student or student's family;
- (D) a personal identifier such as the student's Social Security number or student number or biometric record;
- (E) other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
- (F) 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; or
- (G) information requested by a person who is believed to know the identity of the student to whom the education records relate.

- 6.0 School official;** a person employed by the University in an administrative, supervisory, academic, research, student staff or support staff position (including law enforcement personnel and health staff); a person or entity with whom the University has contracted (such as an attorney, auditor, collection agent, software vendor or service provider); a person serving on the University's Board of Trustees; or a student or volunteer community member serving on an official committee (such as a scholarship, disciplinary or grievance committee) or assisting another school official in performing his or her duties.
- 7.0 Student;** anyone who is or has ever been enrolled at Portland State University. An enrolled status is achieved by maintaining active registration in classes on the official first day of the term, or later. This includes non-degree seeking, high school dual credit, non-credit, and special program students such as those attending the Intensive English Language Program. A person who is or has been enrolled in one component of the University and who has applied for admission to but has not been admitted or registered in another component of the University is not a student with respect to the component in which his or her application and registration are pending.
- 8.0 Unit Custodian of Student Records;** the head of each academic or administrative unit responsible for the education records within that unit.
- 9.0 University Custodian of Student Records;** the Provost and Vice President of Academic Affairs or any other person officially delegated University-wide responsibility for education records by the University President.

3.0 Policy and Procedure

1.0 Release of Personally Identifiable Information With Consent

- 1.1 Except as permitted in the Act and other applicable law, the University will not disclose personally identifiable information from a student's education records unless the student provides a signed and dated written consent which 1) specifies the records that may be disclosed, 2) states the purpose of the disclosure, and 3) identifies the party or class of parties to whom the disclosure may be made.

2.0 Release of Personally Identifiable Information Without Consent

The University may, at its discretion and to the extent permitted by the Act, disclose personally identifiable information from an education record without the student's consent if one of the following conditions is met:

- 2.1 The disclosure is to a school official who has a legitimate educational interest.
- 2.2 The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for the purposes related to the student's enrollment or transfer.
- 2.3 The disclosure is to comply with a judicial order or lawfully issued subpoena.
- 2.4 The disclosure is in connection with the health or safety emergency if knowledge of the information contained in the record is deemed necessary to protect the health or safety of the student or of other persons. The factors to be taken into account in determining whether this exception applies shall include the following:
- A) the seriousness of the threat to health or safety;
 - B) the need for the information to meet the emergency;
 - C) whether the individuals to whom the information is disclosed are in a position to deal with the emergency; and
 - D) the extent to which time is critical in dealing with the emergency.
- 2.5 The disclosure is to an entity conducting legitimate educational research, testing, accreditation functions, granting financial aid, or improving instruction; provided, that such data does not permit identification of the student or parents and if the information is to be destroyed when no longer needed to carry out its specified purpose.
- 2.6 The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine

eligibility for the aid, determine the amount of the aid, determine the conditions for the aid, or enforce the terms and conditions of the aid. As used in paragraph, “financial aid” means a payment of funds provided to a student (or a payment in kind of tangible or intangible property to a student) that is conditioned on a student’s attendance at the University. “Financial aid” does not include private support provided by parents, step-parents, other family or friends.

- 2.7 The disclosure is information the University has designated as directory information, unless the student has requested in writing that directory information be kept confidential.
- 2.8 The disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense.
- 2.9 The disclosure is in connection with a disciplinary proceeding at the University and the University determines that (a) the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and (b) the student has committed a violation of the University’s rules or policies with respect to the allegation made against him or her. 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 subsection applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.
- 2.10 This disclosure is otherwise in compliance with the Act or other applicable law.

3.0 Release of Directory Information: Request for Confidentiality

- 3.1 The University may disclose directory information in compliance with the Act.
- 3.2 Students may restrict the disclosure of all directory information by filing a Student Records Privacy Request form to the Office of the Registrar at any time during regular business hours. The restriction becomes effective as soon as is reasonably practicable, usually within two full business days, and remains in effect until revoked in writing, even after the student leaves the University. Such a restriction may be placed or removed not more than once per academic term.

4.0 Response to Subpoenas and Court Orders

- 4.1 The University may disclose personally identifiable information from an education record of a student without consent if the disclosure is required to comply with a judicial order or lawfully issued subpoena. Except as provided in paragraph (2) of this rule, the University shall make a reasonable effort to notify the student of the judicial order or subpoena in advance of compliance so that the student may seek protective action.

- 4.2 The University shall not notify the student of a judicial order or lawfully issued subpoena for education records where:
- A) a federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
 - B) any other subpoena issued for law enforcement purposes and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
 - C) an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of offenses listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.
- 4.3 Subpoenas seeking education records are typically served on the Office of the Registrar or the Office of General Counsel. Any University employee who receives or is served with a subpoena or court order for education records should immediately notify their supervisor and the Office of General Counsel.
- 4.4 No document shall be released and no information shall be disclosed until University legal counsel determines that the subpoena or court order is valid. The Office of General Counsel will work with employees to ensure that the requirements of all related laws are met and that the employee understands their obligation under any subpoena or court order.

5.0 Location and Custody of Student Records

- 5.1 Student education records shall be kept in locations central to the University, or to the colleges, schools, divisions, or departments in which they are maintained.
- 5.2 The control of such records should be assigned to designated personnel specifically charged with maintaining the confidentiality of the records.
- 5.3 Education records may also be maintained by individual employees and others acting on behalf of the University.
- 5.4 The Provost and Vice President for Academic Affairs or their designee(s) is the custodian of all student education records maintained by the University or on its behalf and shall have ultimate control of all education records. The Vice Provost for Academic Innovation and the Associate Vice Provost and University Registrar are designated custodians.

- 5.5 The Office of the Registrar is the initial point of contact for questions related to the Student Records Policy.

6.0 Student Access to Records

- 6.1 Except as provided in paragraph (3) of this rule, a student may inspect and review, with the appropriate record custodian or in his or her absence a staff member of the office or department that maintains the record, any education records that pertain to the student. Access to records shall be provided as soon as practicable, but not later than 45 days following the request. This rule does not require the University to provide a student or anyone else with an official transcript.
- 6.2 If circumstances effectively prevent a student from exercising the right to inspect and review their education records at the University, the student may make a written request to obtain a copy of the records. The University may then provide a copy of the records requested or make other arrangements for the student to inspect and review the requested records. Copies may be provided as soon as practicable, but not later than 45 days following the request. While the University may not charge a fee to search for or to retrieve the education records of student, where copies are provided, the University may charge the student a fee for a copy of the record at the prevailing University rate for photocopies, unless the imposition of the fee effectively prevents the student from exercising the right to inspect and review. The student may be charged the actual postage charges for mailing.
- 6.3 The University shall not destroy an education record if there is an outstanding request to inspect and review that record, regardless of the records retention schedule for that record.
- 6.4 The following records are not available to students:
- A) Records that are kept in the sole possession of the maker, 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 records.
 - B) Records relating to an individual who is employed by the University which are made and maintained in the normal course of business and which relate exclusively to the individual in question in his or her capacity as an employee, and are not available for any other purpose. This paragraph does not apply to records relating to an individual in attendance at the University who is employed as a result of his or her status as a student.
 - C) Records made or maintained by a physician, psychiatrist, psychologist, or other professional or paraprofessional acting in a professional capacity

related to treating a student. However, such records may be reviewed by a physician or other appropriate professional at the student's written request.

- D) Financial records of the student's parents or guardians, unless they have given written consent to the student seeking the records.
- E) Confidential appraisals, evaluations or recommendations placed in an education record prior to January 1, 1975, if the appraisals, evaluations or recommendations continue to be used only for their original purpose.
- F) Confidential appraisals, evaluations or recommendations received after January 1, 1975 for which the student has signed a waiver of the right of access and which relate to the student's admission to an educational institution, application for employment, or recommendation for or receipt of an honor or other form of recognition.
- G) Records of the Campus Public Safety Office which are created and maintained for law enforcement purposes and which are not otherwise available to the public.
- H) Information of other students contained on education records that contain information on more than one student.

7.0 Fees for Courtesy Copies of Education Records

- 7.1 Unless the imposition of a fee effectively prevents a student from inspecting and reviewing the student's education records, the University may charge a fee for a courtesy copy of a record that is made for the student or others. Fees are set in accordance with the University's fee approval process.

8.0 Student's Right to Challenge or Amend Information Contained in Education Records

- 8.1 If a student believes an education record relating to the student contains information that is inaccurate, misleading, or in violation of the student's rights of privacy, the student may ask the unit custodian of the student record or the University custodian of student records, whichever custodian is in possession of the record, to amend the record. Such a request shall be submitted to the appropriate record custodian in writing and shall include at a minimum the following:

- A) if available, a copy of the record the student is seeking to amend;
- B) the specific amendment sought;
- C) the reasons why the student is seeking the amendment; and

D) all evidence the student wishes the University to consider.

- 8.2 The University shall decide whether to amend the record within a reasonable time after it receives the request. If the University decides not to amend the record as requested, it will inform the student of its decision and of his or her right to a hearing.
- 8.3 A hearing requested by the student will be informal but must meet the requirements of the Act. The hearing must be held within a reasonable period of time after the University has received the request for the hearing. The student must be given notice of the date, time and place reasonably in advance of the hearing. The hearing may be conducted by any individual, including an official of the educational agency or institution, who does not have a direct interest in the outcome of the hearing. The student shall be provided with a full and fair opportunity to present evidence relevant to the student's request to amend the record. The student may, at his or her own request, be assisted or represented at the hearing by one or more individuals of his or her own choice, including an attorney. The University shall make its decision in writing within a reasonable period of time after the hearing. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.
- 8.4 If, as a result of the hearing, the University decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the record accordingly and inform the eligible student of the amendment in writing. If the University decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the student of this decision and of the right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the University's decision, or both. Any such statement will be maintained with the contested part of the record for as long as the record is maintained and disclosed whenever the relevant portion of the record is disclosed.

9.0 Waivers of Right to Access Letters of Appraisal, Evaluation or Recommendation

- 9.1 A person applying for admission, a scholarship, employment, honors or honorary recognition may voluntarily waive the right of access to confidential letters of appraisal, evaluation or recommendation regarding such applications. A person providing a waiver is entitled, upon request, to be notified of the names of all persons providing confidential appraisals, evaluations or recommendations. Such waivers must be submitted with written or electronic authorization, to the appropriate University unit administering the application process.
- 9.2 Under no circumstances can the University compel the student to waive his or her right to access education records as a condition for admission to or receipt of a

service or benefit from the University. Notwithstanding, the person being asked by the student to provide an appraisal, evaluation or recommendation may require a waiver before agreeing to provide the appraisal, evaluation or recommendation.

10.0 Files or Records Containing Letters of Appraisal, Evaluation or Recommendation

10.1 Letters Received Prior to January 1, 1975: No letters of appraisal, evaluation or recommendation received prior to January 1, 1975, shall be revealed to a person applying for admission or to a student unless the author notifies the unit custodian in writing of his or her agreement.

10.2 Letters Received After January 1, 1975: Such letters shall be treated as follows:

A) Unless a waiver from the student is on file, letters of appraisal, evaluation or recommendation in which the writer claims confidentiality or says the letter was solicited with an assurance of confidentiality, shall be returned to the writer. The return letter to the writer shall inform the writer that the document is open to review by the student under the Act. If the writer is willing to resubmit the letter under that condition, the writer is asked to return the letter.

B) Letters of appraisal, evaluation or recommendation which were not solicited with an assurance of confidentiality nor which claim confidentiality shall be open for review by the applicant or student involved, unless a waiver from the student is on file.

10.3 University application instructions and appraisal forms shall inform writers and applicants or students of student rights of access to letters of appraisal, evaluation or recommendation under this section.

11.0 Prohibition of Re-release of Education Records

11.1 All copies of education records released pursuant to this policy shall include a statement advising the recipient of the limitations on redisclosure contained in the Act. Specifically, the notation shall advise that under the provisions of the Federal Education Records Privacy Act, the information provided in the document is not to be released to others without the written consent of the student.

12.0 Record of Access to Student Records

12.1 A written notation shall be made in a student's education record on each occasion that a person outside the University is given access to it. The notation should indicate the person's name, organization represented, and the date and the reason for granting access. The notation will be maintained as long as the record is maintained. However, such notation is not required when:

- A) the disclosure is made to the student;
- B) the disclosure is made pursuant to the student's written consent, which must be kept as a permanent part of the student's record;
- C) the disclosure is made to University officials with a legitimate educational interest;
- D) the disclosure consists of directory information, unless the student has elected confidentiality for all records;
- E) the disclosure is as directed by a grand jury or other subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;
- F) the disclosure is directed by an ex parte court order obtained by the United States Attorney General or their designee concerning investigations or prosecutions of offenses listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

13.0 Permanence, Duplication, and Disposal of Student Records

- 13.1 Individual education records shall be maintained only for the minimum period of time required to serve the official functions of the unit generating and maintaining them.

14.0 Annual Notice to Students

- 14.1 At least annually, and consistent with the applicable provisions of the Act, the University shall provide notice to students of their rights under the Act in a manner reasonably likely to inform the students of such rights.

4.0 Links To Related Forms

Find the Student Records Privacy Request form:

http://www.pdx.edu/registration/sites/www.pdx.edu.registration/files/rec_req_priv_conf.pdf

Find the Student Consent for Release of Non-Directory Information form:

http://www.pdx.edu/registration/sites/www.pdx.edu.registration/files/rec_release.pdf

Find Student Waiver of Access to Letters of Recommendation form:

http://www.pdx.edu/registration/sites/www.pdx.edu.registration/files/waive_access.pdf

5.0 Links To Related Policies, Procedures or Information

Find the Student Health & Counseling Center policy on Patient Confidentiality

<http://www.pdx.edu/shac/patient-confidentiality>

6.0 Contacts

Office of the Registrar

104 Neuberger Hall, 724 SW Harrison Street

(503) 725-3220

E:mail: registrar@pdx.edu

7.0 History/Revision Dates

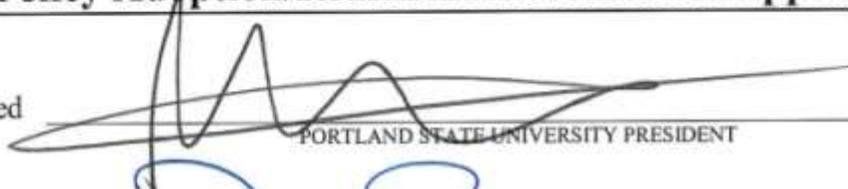
Adoption Date: January 19, 2017

Policy History: Pursuant to Section 170 Chapter 176, 2013 Oregon Laws, effective July 1, 2014 this policy supersedes Oregon Administrative Rules 577-030-0005 through 577-030-0070

Next Review Date: January 19, 2022

8.0 Policy Adoption/Reaffirmation/Revision Approvals

Approved



PORTLAND STATE UNIVERSITY PRESIDENT

Date

1/23/17

Approved



PORTLAND STATE UNIVERSITY GENERAL COUNSEL

Date

1/23/17