

## Family Educational Rights and Privacy Act of 1974 (FERPA) Summary of the Law

1. The law applies to all students in higher education, regardless of age, once they begin attending classes. The law continues to apply to students even after they have graduated, but ceases to apply upon the death of the student.
2. We may not disclose any information about students, other than directory information, to unauthorized persons or organizations. Non-disclosable information includes things like social security number, grades, academic standing, which classes a student is enrolled in, how many credit hours the student has earned, test scores, student disciplinary records and any other information considered an educational record.
3. Authorized persons and organizations are those who have a legitimate educational interest.
  1. They include employees of SOU, OUS, the US Department of Education and other education authorities carrying out official duties, as well as financial aid lenders. Also included are organizations which SOU has contracted with; these organizations are agents of the university. An example is the National Student Loan Clearinghouse.
  2. A legitimate educational interest means that the person or organization is required to perform certain duties and these duties involve the use of student data.
  3. Further, a legitimate educational interest in one area does not constitute the right to access student data in other areas. For example, a faculty member must be able to access data about the students he or she is advising. However, this does not automatically give the faculty member the right to access data on students whom he or she is not advising or teaching, or to access data not related to the teaching function.
4. Directory information at SOU includes: name, local and permanent addresses and telephone numbers, date and place of birth, academic major, participation in officially recognized activities and sports, dates of attendance, enrollment status, degrees and awards received, and the most recent previous institution attended.
5. A student may declare him or herself to be "Confidential" in which case we cannot release any information, even directory information. In fact, we do not even acknowledge that the student is at SOU. This is a very important provision given that some students may be victims of stalkers or simply wish to protect their privacy. Obviously, this restriction does not apply when providing information to those who have a legitimate educational interest.
6. Persons who are not authorized to receive student data, but who may apply a great deal of pressure include: parents, relatives, spouses and ex-spouses, employers or potential employers, attorneys and other representatives of law firms, and representatives of a variety of other types of organizations (e.g., collection agencies). To repeat, the only information we may give out to people like this is directory information. If you receive a phone call or a visit from someone like this, you should direct the call or person to the Registrar's Office.
7. There are exceptions to the rule of non-disclosure which involve health and safety. This means that, to prevent sickness, injury or death, we may disclose information usually held to be protected. Also, an agent of the court with a properly issued court order or subpoena may also receive student data, though we must first attempt to notify the student before complying with the subpoena. All cases like these should be referred to the Registrar's Office, which, in turn, consults with legal counsel before complying.
8. Students have other rights under FERPA. These include:
  1. To be informed of third parties seeking access to their records (e.g., a subpoena).
  2. To view SOU's written policy regarding their educational records.
  3. To be assured their educational records will not be used for purposes other than those for which they were collected.
  4. To inspect and review their educational records.

5. To challenge the contents of their educational records.
  6. To have a hearing if the challenge to their educational records is unsuccessful.
  7. To file an explanation if the challenge is denied.
  8. To file a complaint with the US Department of Education on alleged FERPA violations.
9. An educational record is one directly related to a student and maintained by the institution or a party acting for the institution. This definition covers many kinds of records kept at SOU. These include records kept in any of the following campus offices:
1. Admissions
  2. Registrar
  3. Financial Aid
  4. Business Services
  5. Academic advisor
  6. Academic department
  7. Career Placement
  8. Student Counseling
  9. SOU administrator
  10. Student Services  
(sole possession notes are exempt)
10. Non-educational records are:
1. Personal records kept by a staff member if kept in the sole possession of the one who made the record and never revealed to another individual.
  2. Law enforcement records maintained solely for law enforcement purposes and revealed only to law enforcement agencies.
  3. Employment records of those whose employment is not contingent upon being a student.
  4. Medical or psychiatric records maintained by the SOU Health and Wellness Center and not revealed to those involved with such treatment.
  5. Alumni records containing non-student data collected on students who no longer attend. This is data which has been collected after the last date of attendance or graduation.
11. Educational records which students cannot review:
1. Records which do not contain educational information or do not fall into the category of education records because of how they are maintained.
  2. Financial records of parents.
  3. Confidential records placed in education records prior to 1975 if they are used as intended.
  4. Confidential recommendations or receipts of honors if the student has waived the right of access to such information.
  5. Documents containing information on more than one student.

\*\*\*Important Note:

Since September 11, 2001, the Congress passed new legislation which allows the Attorney General (or a designee) to present a subpoena for a student's records where the student is a subject of interest related to enforcement of laws related to terrorism. The subpoena may require that the student expressly NOT be notified. SOU is required to respond to such a subpoena. If you are served with such a subpoena, you should refer the individual to either the Registrar's Office or the Provost's Office.