

GUIDELINES FOR THE IMPLEMENTATION OF THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND STUDENT RECORDS ACCESS

I. Background

Among its several purposes, the Family Educational Rights and Privacy Act of 1974 (FERPA) was enacted to protect the privacy of students' education records, to establish the rights of students to inspect and review their education records, and to provide students with the opportunity to have inaccurate or misleading information in their education records corrected. FERPA also permits the disclosure by an institution without a student's prior consent of so-called directory information about that student. Students have the right to file complaints with the Department of Education's Family Policy Compliance Office concerning alleged failures by an institution to comply with FERPA. In accordance with the statute, as amended, and the FERPA regulations issued by the Department of Education, the Mount Sinai Phillips School of Nursing ("the School") has adopted the following policies and procedures.

II. Applicability

"Student" includes any person with respect to whom the School maintains an education record, whether or not the person is currently in attendance. Persons who have not been in attendance are not "students" entitled to review their record. Therefore, persons who have applied to and been admitted to the School, but who have not yet begun to attend classes, are not eligible to review their records.

III. Education Records

"Education records" available for review are defined as those records, files, documents, and other materials that contain information directly related to a student and that are maintained by the School or by a third party acting for the School. The form in which the information is maintained by the School does not matter; for example, handwritten, computerized or electronic files, audio or video tape, photographic images, film, etc., with such information are "education records". This includes communications and documents distributed or received by e-mail, or other similar School systems, which are retained in these systems, either by the sending or receiving party.

In general, records maintained by the School that are available for student review are located in the Registrar's Office, Admissions, Financial Aid (if student has applied for aid) and the Bursar's Office. Not all of these categories of records are maintained for any given student, and there may be others. Students have the right to review original documents from their files.

Under FERPA and its related regulations, the following types of School records are not "education records" and are, therefore, not available for student review:

1. Personal notes or records (including computerized files) that are kept by an individual School employee solely in their possession, are used only as a personal memory aid, and are not accessible or revealed to others, except to a temporary substitute.
2. Records that relate to an individual who is employed by the School and that (a) are made and maintained in the normal course of business, (b) are not available for use for any other purpose, and (c)

relate exclusively to the individual in that individual's capacity as an employee. (Note: This exceptions does not apply to records that relate to a student in attendance at the School who is employed as a result as their status as a student.)

3. Records created by the School's Campus Safety and Security Department at least in part for law enforcement purposes.
4. Medical and psychiatric records created, maintained, and used only in connection with the treatment of a student and that are not available to anyone other than the persons providing such treatment. Such records can be personally reviewed by a physician, psychologist, or other appropriate health professional of the student's choice. (Students who have received treatment from Employee Health Services, from counseling services or the Emergency Department may contact those offices to inquire concerning access to patient information.)
5. Records that contain information relating to an individual who is no longer a student at the School and that are not directly related to the individual's attendance as a student, i.e., alumni records.
6. Grades or peer-graded papers before they are collected and recorded by an instructor.

In addition, the School does not have to permit a student to review education records that are:

1. Financial records of the parents of a student.
2. Confidential letters and statements of recommendation placed in the education records of a student (a) prior to January 1, 1975, as long as they are used only for the purposes for which they were specifically intended; and (b) after January 1, 1975, if the student has waived access to such letters and recommendations and if such letters and recommendations relate to the student's admission to the School or another educational institution, application for employment, or receipt of an honor or honorary recognition (see Section V, Waivers).

IV. Access to Records

At the Mount Sinai Phillips School of Nursing, FERPA is administered by the School Registrar Toni Marmol. The Office of the Registrar is located at 148 East 126 Street, Ground Floor, New York, NY 10035. Except as noted below, requests to review records, for copies of the statute or its attendant regulations, or for additional information concerning FERPA, should be directed to the Office of the Registrar.

The request to review records should specify what records are to be inspected. Upon receipt of a request, the Registrar will set up an appointment for the student's review of such records and will supervise the review. Students are provided with this review opportunity within a reasonable time, not to exceed 45 days from the date of receipt of the request. If any material or document in the education record(s) of a student contains information on more than one student, the student may inspect and review or be informed of only that part of the material or document relating to the student.

At the School's discretion, students may obtain duplicate copies of records other than PSON transcripts at a cost of 10 cents per page. Students will not be permitted to remove the original record(s) from the record review office.

V. Waivers

A student may waive their right to access to confidential recommendations for any of the following: admission to an educational institution; employment; receipt of an honor or honorary recognition. The waiver must be in writing and must be signed by the student. If a student waives their right to access, the recommendations must be used solely for the purposes for which they were intended and, if the student so requests, the School will give them the names of the individuals who made the recommendations. Recommendations made to third parties should include a copy of the signed waiver so that the third party is aware that the student has waived access to the recommendation and, hence, cannot obtain access to it from the third party's records in the future. The School does not have the right to make the student's waiver a condition to the student's receipt of any service or benefit from the School. Waivers may be revoked by the student, but the revocation will not enable the student to gain access to confidential recommendations made while the waiver was in effect.

VI. Amendment of Records

If a student believes that any of the education records relating to them contains information that is inaccurate, misleading, or in violation of their rights of privacy, the student may ask the to correct or delete such information. The student may also ask that additional explanatory material be inserted in the record. Requests for amendment of a record or the addition of explanatory material should be submitted in writing at the conclusion of the record review. The reasons for the request should be set forth and should clearly identify the part of the record the student wants changed and specify why it is inaccurate or misleading. There is no obligation on the part of the School to grant such a request. If the School declines to amend the records as requested by the student, it will so inform the student, and the student may request that explanatory material be inserted not the record or may request a hearing (see Section VII). The right to challenge the contents of an educational record may not be used to question substantive educational judgments that have been correctly recorded or to contest the assignment of a grade. Grades given in the course of study include written evaluations that reflect institutional judgment of the quality of a student's academic performance.

VII. Hearings

If the School declines to amend a student's record as they request, the student has the right to a hearing. The hearing will be held within a reasonable time after the School receives the student's request for it, and the student will be notified of the date, time, location and modality of the hearing. The School will select a hearing officer in its sole discretion, who may be an official of the School who does not have a direct interest in its outcome. At the hearing, the student may be assisted or represented by one or more individuals, including legal counsel, of the student's choice at the student's expense. Within a reasonable time following the hearing, the hearing officer will make their recommendation(s) in writing to the School's Dean (or their designee). This recommendation, and the written decision of the Dean or their designee on behalf of the School, will be based solely on the evidence presented at the hearing and will include a summary of that evidence and the reasons for the conclusions reached. If the decision of the School's Dean or their designee is to amend the record, the record will be amended and the student will be given written notice of the amendment. If the decision of the Dean or their designee is not to amend the record, the student will be informed that they have the right to place a written statement in the record which will be maintained in the file as long as the file itself is kept. The statement may comment on the contested portion of the file or say why the student

disagrees with the decision of the Dean or their designee, or do both. If the contested portion of the file is disclosed to anybody, the student's statement will also be disclosed.

VIII. Disclosure of Personally Identifiable Information

Prior to disclosing personally identifiable information from a student's education record, the School will obtain the student's signed and dated written consent to such disclosure, unless consent is not required by law. Personally identifiable information includes but is not limited to: the student's name/preferred name, the name of the student's parent or other family member, the student's address, personal identifiers such as the student's social security number or biometric record, other indirect identifiers such as the student's date of birth, place of birth or mother's maiden name, other information that alone, or in combination, is linked or linkable to a specific student and which would allow a reasonable person in the school community to identify the student, or information requested by a person who the school reasonably believes knows the identification of the student to whom the education record relates.

Where written consent is needed, the student's written consent must "specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made." In the case of certain offices, such as the career services office, students can sign a blanket consent for disclosure of specified records to "appropriate third parties". Signed and dated written consent "may include a record and signature in electronic form that identifies and authenticates" the student as the source of the consent and indicates the student's "approval of the information contained in the electronic consent."

When a student gives their written consent to the disclosure of personally identifiable information from their records to persons outside the School, the student may request that the School provide him or her with the copy of any records thus disclosed, and the School will do so.

The purpose of the consent form is to permit the student to have some control over the disclosure of personally identifiable information in his or her education records. The fact that a student signs a consent form, whether specific or "blanket", does not, however, bind the School to make the student's records available to the third party or parties who have obtained the student's consent to their review of their files. The student's records are still the property of the School and, even if a consent has been signed, the School will exercise its discretion in each case by disclosing to the third party only such information, records and files, if any, that the School deems appropriate in light of the reason that the third party is seeking access to the student's records. Because of this, all consents obtained directly from students by third parties must include a specification of the records to be disclosed, the purpose of the disclosure, and the person or group of persons to whom the disclosures may be made. The original signed consent must be provided to the School by the third party at the time the request for access is made. The School will retain the original consent. Records to which students are denied access because they are not "education records" usually will not be made available to an outside party. In addition, the third party generally will not be permitted to make copies of records to which they are granted access, even if the consent signed by the student explicitly gives permission for such copies to be made. If the student wishes the third party to have copies of documents in their file, or if there are other documents to which the third party has not been granted access by the School but which the student wishes the third party to have, the student may copy those records (See Section IV above) and provide such copies to the third party directly.

Prior written consent from the student is not needed for disclosure of directory information (see Section IX below) or for disclosure in certain circumstances including:

1. to the student;

2. to school officials with legitimate educational interests; (Note: A school official with a legitimate educational interest may include a School employee acting within the scope of their employment; a person serving on the Board; a student serving on an official committee such as a disciplinary or grievance committee; and a duly appointed agent or representative of the School acting within the scope of their appointment including but not limited to a volunteer or a contractor who performs an institutional service or function for the School and who is under the control of the School with respect to the use and maintenance of personally identifiable information from education records. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill their professional responsibilities for the School.

3. to an accrediting, testing or similar organization;

4. to parents of dependent students (see Section XI below);

5. to certain federal, state, and local officials and authorities, in each case as specified in Subpart D of the FERPA Regulations, 34 C.F.R. Part 99;

6. in connection with financial aid for which the student has applied or received, under the conditions set forth in the FERPA Regulations;

7. to comply with a subpoena or judicial order, provided that the School attempts to notify the student of the order or the subpoena before complying with it (unless, in the case of a Federal grand jury subpoena or other subpoena issued for law enforcement purpose, the subpoena orders that such notification not be made), or to provide information to the Attorney General of the United States or their designee, without notification to the student, in response to a court order issued in connection with the investigation or prosecution of terrorism crimes as specified in Title 18, U.S. Code, sections 2331 and 2332 (g)(5)(B). Permission is not needed for disclosure to a court when the School has initiated legal action against a parent or student or when necessary for the School to defend itself when a parent or student has initiated action against it.

8. In an emergency where there is an articulable and significant threat to the health and safety of a student or other individual, to appropriate parties whose knowledge of the information is necessary to protect the health or safety of the student or other individuals. In such cases, the School will maintain a record of the articulable and significant threat which formed the basis for disclosure and the parties to whom the information was disclosed.

9. when forwarding education records to the officials of another institution (a) in which a student seeks or intends to enroll if that institution requests such records, or (b) if the student is enrolled in, or receiving services from, that institution while they are attending PSON, provided that the disclosure is for purposes related to the student's enrollment or transfer. The student's consent is not required for such disclosure, nor is any other notice of the transfer required, although a copy of each record so disclosed will be provided to the student if the student asks for it.

10. of the final results of any School disciplinary proceeding relating to a crime of violence or non-forcible sex offense allegedly perpetrated by a School student to an alleged victim of that crime or offense, regardless of whether or not it is concluded that a violation was committed. The consent of the alleged student perpetrator is not a condition for this disclosure.

11. of the final results of any School disciplinary proceeding reached on or after October 7, 1998 if it is determined that a student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of the School's rules or policies with respect to the allegation. The names of other students, including the victim or witnesses, may not be disclosed without their prior written consent.

12. to the parent of a student regarding the student's violation of any Federal, State or local law, or any rule or policy of the School, regarding the use or possession of alcohol or a controlled substance, provided that the School has determined that the student has committed a disciplinary violation with respect to that use or possession and the student is under the age of 21 at the time of disclosure.

13. of information concerning registered sex offenders, provided to the School under the Wetterling Act, including information made available under State sex offender registration notification programs.

The School will maintain a record of each request for and disclosure of personally identifiable information from the education records of a student to persons outside the School for as long as such records are maintained. The record will indicate the parties who have requested or obtained the personally identifiable information and the legitimate interest these parties had in requesting or obtaining the information. The student has the right to inspect and review this record of requests. The requirement to keep records of requests does not apply to: disclosures to the student; disclosures made pursuant to the written consent of the student; disclosures to School officials determined by the School to have legitimate educational interests; disclosures of directory information; or disclosure made in compliance with a grand jury or other law enforcement subpoena which orders that the existence or contents of the subpoena or the information furnished not be disclosed.

In instances where disclosure of personally identifiable information from an education record to a third party is permitted (see above) the third party is subject to the requirements of the FERPA Regulations with respect to possible redisclosure of that information and the School must so inform the third party.

IX. Directory Information

The School has designated the following student information as "directory information". Directory information is information in the student's education record not generally considered harmful or an invasion of privacy under FERPA. Directory information may be disclosed for any purpose, at the discretion of the School, except as provided below. Directory information includes: name, dates of attendance, previous institution(s) attended, major field of study, full or part-time status, degree(s) conferred (including dates), honors and awards, and email address.

The following caveats relate to directory information:

1. Email addresses are directory information for appropriate internal purposes only.

2. Under federal law, physical mailing address, telephone listings and age are also considered directory information for military recruitment purposes.

Currently enrolled students may refuse to permit disclosure of this information. To do so, a student may opt out on the "Consent Form to Release Student Information (FERPA)" that is available in the orientation package sent to every incoming student. A hold will then be placed on the release of directory information filed with the Registrar, which will remain in effect until the student files a written request to remove it. A request not to disclose directory information applies to the entire category of such information and cannot be selective with regard to specific items defined as directory information. Similarly, a request not to disclose directory information applies to all individuals and organizations, subject to the exceptions stated in Section VII above, and cannot be selective with regard to specific individuals or organizations.

A student may not use the withholding of directory information to prevent the School from disclosing or requiring the student to disclose their name, identifier or institutional email address in a class in which the student is enrolled. Students should consider very carefully the effect of a decision to withhold directory information. If that decision is made, any requests during that academic year for such information from non-School persons or organizations will be refused (subject to the exceptions cited in Section VIII above or unless the student has subsequently removed the hold by notifying the Registrar in writing). If a student does not specifically request the withholding of directory information by filing the appropriate School form, as indicated above, the School assumes that they approve of the disclosure of such information. The School disclaims any and all liability for inadvertent disclosure of directory information designated to be withheld.

X. Review by Government Agencies

Authorized representatives of government agencies may occasionally ask to see a student's education record. Such requests are usually made when a student or former student has applied for a government job. The government agent should be referred to the Registrar's office, as indicated in Section IV above. Generally, the School will handle such requests in the same manner as other requests for access to student records by third parties (see Section VIII), provided that the government agent shows official identification and provides a signed release from the student, a copy of which will be retained by the School.

Government agents with subpoenas should be referred to the Office of the Dean. Under the FERPA regulations, the School is required to make a reasonable attempt to notify the student prior to complying with the subpoena unless, in the case of a subpoena issued for law enforcement purposes, the subpoena orders that such notifications not be made (Section VIII above).

XI. Requests from Parents

Occasionally, a parent will request information from a student's education records or a copy of the student's transcript. Under FERPA, institutions are not required to disclose such information to the student's parent, but may do so if: (a) there is written consent to the disclosure from the student, or (b) the parent requests the information in writing and produces evidence that the student is their dependent under the Internal Revenue Code of 1986 (See Section VIII above), or (c) the student has violated a Federal, State or local law, or any rule or policy of the School regarding the use or possession of alcohol or a controlled substance, provided that the School has determined that the student has

committed a disciplinary violation with respect to that use or possession and the student is under the age of 21 at the time of the disclosure.

If the procedure indicated under (b) is followed, the School's practice is to ask the parent to establish dependency by providing a copy of their latest federal income tax return. Confidential information on the return maybe expunged, provided that the information that remains is sufficient for the School to ascertain that the parent has claimed the student as a dependent. Further, it is also the practice of the School (except in a health or safety emergency) to inform the student of such a request and of the information requested before deciding whether to provide the requested information to the parent. "Parent" is defined by FERPA as "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian."

XII. Annual Notice

The School will inform students of these Guidelines and of their rights under FERPA and the Department of Education's FERPA regulations by placing a notice about them on the School's website at <http://www.pson.edu>. The School will separately provide students with electronic correspondence regarding their FERPA rights on an annual basis. The Guidelines are also available through the Student Resources link on Moodle, the School's learning management system.

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