



**Idaho State  
University**

**POLICIES AND PROCEDURES**

**FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT**

**(FERPA)**

**ISUPP 1150**

*POLICY INFORMATION*

**Policy Section:** *Governance / Legal*

**Policy Title:** *Family Educational Rights and Privacy Act*

**Responsible Executive (RE):** *Chief Compliance Officer*

**Sponsoring Organization (SO):** *Office of General Counsel*

**Effective Date(s):** *TBA*

**Last Reviewed:** *New Policy*

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**I. INTRODUCTION**

This policy is established to ensure Idaho State University complies with the Family Educational Rights and Privacy Act of 1974 (FERPA), a federal law that protects the privacy of Student Education Records and provides Students rights regarding those records. This policy articulates those rights, the process for exercising them, and the University's responsibilities in safeguarding Student Education Records.

**II. DEFINITIONS**

- A. Adequate Cause. One or more acts or omissions which, singly or in the aggregate, have directly and substantially affected or impaired an employee's performance of his or her professional or assigned duties or the interests of the University or the Idaho State Board of Education. In addition, any conduct seriously prejudicial to the University may constitute Adequate Cause for discipline up to and including dismissal or termination of an employee.
- B. Directory Information. Information that is not generally considered harmful or an invasion of privacy if disclosed.

- C. Education Records. Records that contain information directly related to a Student and are maintained by the University or by a party acting for the University.
- D. Employee. Any individual employed by Idaho State University in any capacity, as defined in ISUPP 3050 *Categories of Employees*.
- E. Legitimate Educational Interest. The demonstrated need to know by University Employees, Faculty and/or Staff to fulfill their professional responsibilities.
- F. Personally Identifiable Information (PII): Information that can identify a Student, such as name, Student identification number, address, biometric records, or other data linked or linkable to the Student.
- G. Student. For purposes of ISU's FERPA policy, any individual who is or has been in attendance at the University and regarding whom the University maintains Education Records. This definition applies only to the University's FERPA policy.
- H. Treatment Record. Treatment Records are records on a student who is 18 years of age or older, or is attending ISU that are: made or maintained by a physician, psychiatrist, psychologist, or other recognized health professional or paraprofessional acting in his or her professional capacity, or assisting in a paraprofessional capacity which are made, maintained, or used only in connection with treatment of the Student, and which are disclosed only to individuals providing the treatment. Such records can be personally reviewed by a physician or other appropriate professional of the Student's choice.
- I. University Official. A person employed by or conducting business on behalf of the University in an administrative, supervisory, academic, research, or support staff position, including contractors, graduate teaching assistants, and volunteers with a Legitimate Educational Interest.

### **III. POLICY STATEMENT**

The University recognizes and upholds the privacy protections afforded to Students under the Family Educational Rights and Privacy Act of 1974 (FERPA). As such, the University protects the privacy of Student Education Records and governs the collection, use, and disclosure of information contained within those records. The University is committed to safeguarding the confidentiality, security, and integrity of Student records consistent with FERPA and other applicable federal and state laws.

As such, Idaho State University restricts access to and disclosure of Education Records to protect Student privacy. Information may be shared with University Officials and other parties as permitted by law, and under the provisions of this policy.

#### **IV. AUTHORITY AND RESPONSIBILITY**

- A. Academic and Administrative Officials. Responsible for ensuring that Employees under their supervision who handle Student Education Records receive appropriate FERPA training and comply with all University policies and procedures concerning record confidentiality and disclosure.
- B. Employees. Employees with access to Student records are required to complete FERPA compliance training and to adhere strictly to confidentiality requirements.
- C. Faculty and Staff. Responsible for ensuring the confidentiality and security of Student Education Records. They must adhere to the guidelines set forth in this policy and report any unauthorized access or disclosure of Education Records to the appropriate authorities within the University.
- D. Supervisors. Responsible for ensuring the adequate and timely training of the employees they supervise.
- E. The Office of General Counsel. Advises on the interpretation and application of FERPA requirements and provides guidance to University Officials regarding disclosures.
- F. The Office of the Registrar. Serves as the University's official custodian of Student Education Records and has primary responsibility for the maintenance, safeguarding, and disclosure of Student Education Records in accordance with federal law and University policy. The Registrar ensures that appropriate procedures are established for access, amendment requests, consent documentation, and disclosure tracking.
- G. Students. Students are responsible for understanding their rights under FERPA and for submitting any requests to inspect, amend, or restrict disclosure of their Education Records in the manner prescribed by University procedures.

#### **V. FERPA RIGHTS AND RESPONSIBILITIES**

- A. Scope.
  - 1. Individuals.
    - a. This policy applies to all current and former Students of Idaho State University. The rights described in this Policy apply to all Students currently or formerly enrolled in the University, regardless of program, status, or modality of instruction, including Professional Development Students. These rights do not apply to individuals who have applied for admission but have not attended the University.
    - b. This policy applies to all individuals who manage or have access to Student Education Records, including, but not limited to, Faculty, staff, contractors, third parties, volunteers and agents acting on behalf of the University.

## 2. Education Records.

- a. This policy applies to all Education Records maintained by the University in any format. Records that are directly related to a Student and maintained by the University or by a 3<sup>rd</sup> party acting on its behalf, in any medium, including visual information stored by test proctoring software companies, are Education Records. Education Records include, but are not limited to:

- i. Data contained on an academic transcript;
- ii. Papers, exams, and other coursework submitted by the Student;
- iii. Recorded learning activities which contain information directly related to a Student;
- iv. Academic advising notes;
- v. Supporting documentation related to academic transactions, such as copies of forms used to enroll Students;
- vi. University Student email;
- vii. Student conduct records; and,
- viii. Student financial information.

- b. Education Records exclude:

- i. Sole possession notes of instructional, supervisory, or administrative personnel;
- ii. In certain circumstances, records of law enforcement units.
  - 1. Education Records exclude records maintained solely for law enforcement purposes, including records created and maintained by the University Department of Public Safety for Public Safety purposes.
  - 2. Education Records include records that are used exclusively for non-law-enforcement or Public Safety purposes, such as Student disciplinary proceedings, even if created and maintained by University Public Safety.
  - 3. Education Records and Personally Identifiable Information contained in education records, do not lose their status as education records while in the possession of law enforcement units.
- iii. Employment records unrelated to Student status;
- iv. Medical and psychological treatment records maintained by health professionals; and,
- v. Alumni records created after the individual is no longer a Student.

- c. Treatment Records.

- i. Treatment Records are not classified as Education Records under FERPA, provided they are used solely in connection with the treatment of the Student and are accessible only to individuals providing such treatment.
  - ii. Treatment Records are maintained in strict confidence and are not disclosed without the Student's written consent, except as permitted or required by law.
  - iii. Treatment Records become Education Records if they are disclosed to any individual other than a professional providing treatment to the Student or a provider that the Student has been referred to for treatment.
  - iv. Once a Treatment Record becomes an Education Record by a disclosure, the record is governed by all applicable FERPA provisions regarding access, disclosure, and record keeping.
  - v. Once a treatment record becomes an Education Record under FERPA it cannot later be treated as a HIPAA record.
- d. Investigations. When an investigation is directly related to a Student and maintained by the University or a party acting on its behalf, the record of the investigation is considered an Education Record under FERPA, provided it is not subject to an exclusion listed below.
  - i. If the Education Record contains information on more than one Student, a Student requesting information may inspect and review only the specific information that pertains to them.
  - ii. In the event the Student is a Complainant or Respondent in a formal investigation under another University policy the Student is permitted to receive a copy of the entire record.

## B. Student Rights.

- 1. Under FERPA, Students have the following rights:
  - a. Right to Inspect and Review. Students have the right to inspect and review their Education Records within a reasonable period of time, but not more than 45 calendar days after submitting a written request to the Office of the Registrar or the appropriate records custodian.
    - i. The University official will make arrangements for access and notify the Student of the time and place where the records may be inspected.
    - ii. If the records are not maintained by the University official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

- iii. The University official shall respond to reasonable requests for explanations and interpretations of the records.
  - iv. The University shall not destroy any education records if there is an outstanding request to inspect or review the records.
- b. Right to Request Amendment. Students have the right to request amendment of Education Records they believe to be inaccurate, misleading, or otherwise in violation of their rights. Students may request a hearing if the University does not amend their Education Records pursuant to Section VI.B. of this policy.
- c. Right to Consent to Disclosure. Students must provide written consent before the University discloses personally identifiable information from their records, except under certain FERPA-authorized circumstances (e.g., to University Officials with legitimate educational interest, for financial aid purposes, or under subpoena, etc.).
- d. Right to File a Complaint. Students have the right to file a complaint.
  - i. University Level Complaint.
    - 1. If a Student believes information from their Student records has been shared in violation of this policy, the Student may file a complaint with the Dean of Students Office. The complaint must:
      - a. Identify the information that was disclosed and the date of such disclosure, if known;
      - b. Identify the educational record in which the information was located;
      - c. State the name and title or job function of the school official who made the disclosure, if known;
      - d. Identify the individual(s) to whom the disclosure was made and the relationship, if any, to the educational agency or institution and to the Student, if known;
      - e. The circumstances under which the disclosure was made, if known;
      - f. How and when (date) the Student became aware of the disclosure; and,
      - g. Describe any communication between the Student and the person who disclosed the information or the entity to whom the information was disclosed, as applicable.
    - 2. The Dean of Students Office will investigate the complaint and inform the Student and appropriate University officials of the findings.

3. If the investigation determines that disclosure of the Student's information did not comply with this policy, the Student also will be informed of remedies that will be taken by the university.

e. Department of Education Level Complaint.

- i. Students also have the right to file a complaint with the U.S. Department of Education concerning alleged failures by the University to comply with FERPA:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-4605

C. FERPA Exceptions.

1. Directory Information.

- a. The University may disclose the following Directory Information without prior Student consent unless the Student has submitted a written request to restrict disclosure. These items include:
  - i. Student name;
  - ii. Date and place of birth;
  - iii. Address listings;
  - iv. Telephone listings;
  - v. Photograph;
  - vi. University email address;
  - vii. Dates of attendance;
  - viii. Enrollment status (e.g., full-time or part-time);
  - ix. Class level;
  - x. College;
  - xi. Major field of study;
  - xii. Degrees and awards type and dates;
  - xiii. Participation in officially recognized activities and sports;
  - xiv. Height and/or weight of members of athletic teams;
  - xv. Scholarships Awarded; and,
  - xvi. High-School and most recent educational agency or institution attended.

- b. Opt-Out: Students may request non-disclosure of their Directory Information by submitting a request in writing to the Registrar. Requests remain in effect until revoked in writing by the Student.
2. Disclosure Without Consent.
- a. FERPA allows, but does not require, the University to disclose Education Records without consent to:
    - i. University faculty and staff who have a need to know to fulfill their official responsibilities or to third parties the University has outsourced institutional services;
    - ii. Other schools to which a Student is transferring;
    - iii. Accrediting organizations for the purposes of accreditation;
    - iv. Organizations doing certain studies for or on behalf of the University;
    - v. Appropriate parties in connection with financial aid to a Student;
    - vi. Parents when a Student over 18 is still a dependent;
    - vii. Certain government officials in connection with local, state, or federally-supported education programs;
    - viii. Individuals who have obtained court orders or subpoenas;
    - ix. Victims of an alleged perpetrator of a crime of violence, stalking, or a non-forcible sex offense, limited only to the results of a University disciplinary proceeding regardless of whether the University determines through its own investigation that a violation was committed;
    - x. A Parent of a Student regarding the Student's violation of any federal, state, or local law, or of any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance if:
      - 1. The University determines that the Student has committed a disciplinary violation with respect to that use or possession; and
      - 2. The Student is under the age of 21 at the time of the Disclosure to the Parent.
    - xi. Individuals requesting disclosure concerning sex offenders and other individuals required to register under §170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. § 14071, and the information was provided to the University under 42 U.S.C. § 14071 and applicable federal guidelines;



- xii. Faculty and University Officials who have a need to know concerning disciplinary action taken against a Student;
- xiii. Persons who need to know in cases of health and safety emergencies when necessary to protect the health and safety of the Student and/or others;
- xiv. State and local authorities to whom disclosure is required by state laws; and,
- xv. Third party organizations designated by the University as a University Official, including such organizations as the National Student Clearinghouse, Collegiate Sports Commission, NCAA and Big Sky, can receive necessary records for limited purposes if:
  - 1. The organization is performing an institutional service or function on behalf of the university (e.g., compliance monitoring, eligibility certification);
  - 2. The organization is under the direct control of the university with respect to the use and maintenance of Education Records; and
  - 3. The organization is subject to FERPA's re-disclosure restrictions.
- b. The University will disclose a Student's Personally Identifiable Information from Education Records only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the Student unless otherwise allowable by this policy.
- c. Personally Identifiable Information disclosed to an agency or organization may only be used by that agency or organization's officers, employees, and agents for the purposes for which the Disclosure was made.
- d. The University reserves the right to release Education Records without consent pursuant to any provision promulgated by the Department of Education under 34 CFR Part 99.
- e. The Office of General Counsel must be consulted prior to making a disclosure without consent.

## **VI. REQUESTS FOR AMENDMENT**

### **A. Requests.**

- 1. A Student seeking amendment must contact the University by submitting a written request to the University official responsible for the record, clearly identifying the part of the record they believe to be inaccurate, misleading, or in violation of the Student's privacy rights, and specifying the desired correction.

2. After receiving the amendment request the University will decide within a reasonable time whether to amend the record.
3. If the University declines to amend, the Student will be notified in writing of the decision and of the right to a hearing under FERPA.

B. Appeals.

1. A Student may challenge a decision not to amend information in the Student's Education Record by filing a written request for a hearing with the Dean of Students Office.
2. An appeal request must:
  - a. Identify the specific information in the record the Student believes is inaccurate, misleading, or a violation of their privacy rights;
  - b. State all of the reasons in support of the request;
  - c. Specifically state how the Student wants the records to be corrected; and,
  - d. Provide all documents or other information the student believes supports the request.

C. Hearing.

1. The University will convene a hearing to review the request within a reasonable time after the Student submits the request.
2. At least ten (10) business days prior to the hearing, the University will notify the Student of the date, time and place of the hearing in writing.
3. The Dean of Students Office will act as a Hearing Officer to consider the request.
4. Students will be given an opportunity to present evidence and the Student may, at their own expense, be assisted or represented by one or more other individuals, including an attorney.
5. A representative from the University office where the records are maintained or other University official with knowledge of the records will have the opportunity to explain, as applicable, why the information is accurate, not misleading, or maintained in compliance with applicable privacy requirements.
6. The Student has the burden of proof to show that the records they wish to correct are inaccurate, misleading, or a violation of their privacy rights.
7. The Dean of Students will issue written findings within ten (10) business days after the hearing based solely on the evidence presented at the hearing. The findings will:
  - a. State whether the request to amend has or has not been granted;

- b. Summarize the facts that support the decision;
  - c. Include the reason(s) for the decision; and,
  - d. Detail the specific action(s) the record custodian must take to correct the record(s), when applicable.
- 8. The recommended action(s) must be consistent with University policy and applicable state or federal law.
- 9. The Dean of Students will notify the Student and department representative of the findings.
- 10. The decision of the Dean of Students, or designee, is final.
- 11. Decisions.
  - a. If the Dean of Students grants the request, the University will amend the record and inform the Student in writing when the records are amended.
  - b. If the Dean of Students denies the request, the Student will be informed of the right to place a statement in their education record commenting on the contested content or stating the basis for disagreement with the decision, or both.
  - c. 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.

## **VII. COMPLIANCE**

### **A. Record of Disclosures.**

- 1. The University will maintain a record of disclosures of Student Education Records, indicating the parties who have requested or received information and the legitimate interest for each disclosure.
- 2. As Education Records are created and maintained in many different areas of campus, all University Officials must forward a copy of the request or disclosure of Education Records to the Office of the Registrar so that the request or disclosure may be centrally maintained.
- 3. This record will be maintained with the Student's Education Records and made available for inspection by the Student upon request.
- 4. Disclosures to the Student, disclosures of Directory Information, and disclosures to University Officials with legitimate educational interests are exempted from recordkeeping requirements.

### **B. Training and Compliance.**

1. All employees whose positions reasonably require access to Education Records must complete FERPA training upon hire.
  2. The University will provide regular training to employees whose positions reasonably require the handling of or access to Education Records.
- C. Record Retention. Education Records will be maintained in accordance with University Policies and relevant local, state, and federal laws. Records will be securely destroyed when no longer required. Records that are the subject of a request for amendment shall not be destroyed regardless of retention schedule until the process regarding that amendment is finalized.
- D. Violations and Sanctions. Violations of this policy are considered Adequate Cause and may result in any disciplinary action allowable under law or University policy, up to and including termination of employment or expulsion from the University, as well as any potential local, state, or federal penalties.
- E. Annual Disclosure. The University will annually notify Students of their rights under FERPA through official University publications, the Student handbook, electronic communication, or any other notification meant to reach Students.
- F. Transfer of Records. The University will forward Education Records to other institutions upon Student request or as permitted by FERPA, after verifying the requestor's identity.

#### **VIII. RELATED LAWS, RULES, AND POLICIES**

- A. Family Educational Rights and Privacy Act of 1974 (FERPA), 20 U.S.C. § 1232g
- B. Jacob Wetterling Crimes Against Children and Sexually Violent Offender Registration Program, 42 U.S.C. § 14071
- C. 34 C.F.R. Part 99
- D. SBOE Policies, Section II.L.3, Adequate Cause
- E. SBOE Policies, Section III.P.4, Student Records
- F. ISUPP 3050 *Categories of Employees*
- G. ISUPP 1110 *Equal Opportunity and Prohibition of Discrimination, Harassment, and Retaliation*
- H. ISUPP 1120 *Title IX Sexual Harassment: Stalking, Sexual Assault, and Intimate Partner Violence*