

Chapter 504-21 WAC

UNIVERSITY POLICY ON STUDENT EDUCATION RECORDS

WAC

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WAC 504-21-010 University policy on student education records. Public Law 93-380, the Family Educational Rights and Privacy Act of 1974, requires that the university adopt guidelines concerning the right of a student to inspect his or her education records, and guidelines concerning the release of personally identifiable information to third parties. The act further provides that such a student has the right to a hearing in order to provide for the correction or deletion of inaccurate, misleading or otherwise inappropriate data. The act also provides that students be informed of the types of education records maintained by the university that are directly related to students.

Consistent with that act, this policy on student education records is established to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information.

[Order 77-1, § 504-21-010, filed 5/2/77.]

WAC 504-21-020 Definition of a student. A student is defined as any person who is or has been officially enrolled at Washington State University and with respect to whom the university maintains education records or personally identifiable information.

[Order 77-1, § 504-21-020, filed 5/2/77.]

WAC 504-21-030 Education records—Student's right to inspect. (1) A student has the right to inspect and review his or her education records. A list of the types of education records maintained by the university and the record locations may be obtained by the student at the registrar's office.

(a) For purposes of this chapter the term "education records" means those records, files, documents and other materials which contain information directly related to a student.

(b) The term "education records" does not include:

(i) Records of instructional, supervisory and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute or the maker's administrator.

(2/2/09)

(ii) Records of the university police department which are maintained by the law enforcement unit of WSU that were created by the WSU law enforcement unit for the purposes of law enforcement.

(iii) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes. Records relating to an individual in attendance at the agency or institution who is employed as a result of his or her status as a student are education records and not excepted under this paragraph.

(iv) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional, acting in a professional or paraprofessional capacity, or assisting in that capacity and which are created, maintained or used only in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment. Such records can be personally reviewed by a physician or other appropriate professional of the student's choice. In addition, health care information may be disclosed if authorized by state law.

(v) Records that contain information about an individual after he or she is no longer a student at that agency or institution.

(2) Recommendations, evaluations or comments concerning a student that are provided in confidence, either expressed or implied, as between the author and the recipient, shall be made available to the student, except as provided in this subsection.

(a) The student may specifically release his or her right to review where the information consists only of confidential letters and recommendations respecting:

(i) Admission to any educational institution, or

(ii) Employment application information and documents filed and maintained at the student's request at the career services office.

(iii) Receipt of an honor or honorary recognition.

(iv) Faculty evaluations and other education records placed in departmental files where the department serves in a placement or referral capacity.

(b) A student's waiver of his or her right of access to confidential statements is valid only if:

(i) The student, upon request, shall be notified of the names of all persons making confidential statements concerning him; and

(ii) Confidential statements shall be used solely for the purpose for which they were originally intended; and

(iii) Such waivers are not required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from the university.

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(iv) The waiver is made in writing and signed by the student, regardless of age.

(c) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release to the student. Such records shall remain confidential and shall be released only with the consent of the author of the specific document. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to the requesting student.

(4) Students have the right to obtain copies of their education records. Charges for the copies shall not exceed the cost normally charged by a Washington State University copy center (except in cases where charges have previously been approved for certain specified services, such as transcripts and grade sheets).

(5) The registrar is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record.

(6) Student education records may be destroyed in accordance with a department's routine retention schedule where the departmental procedure has been approved by the university records officer. In no case will any record which is requested by a student for review in accordance with these regulations be removed or destroyed prior to final disposition of the record request.

[Statutory Authority: RCW 28B.30.150, WSR 09-04-060, § 504-21-030, filed 2/2/09, effective 3/5/09. Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g, WSR 95-07-043, § 504-21-030, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-030, filed 5/2/77.]

WAC 504-21-040 Requests and appeal procedures.

(1) A request by a student for review of information or a request for amendment shall be made in writing to the university employee or office having custody of the particular record. A request for amendment may be appropriate if the student believes the records contain information that is inaccurate, misleading, or in violation of his/her rights to privacy. Neither the student records officer nor the registration and records committee shall review any matter regarding the appropriateness of official academic grades. (University academic regulations 104, "academic complaint procedures," and 105, "administrative changes to final grades," should be followed in all cases involving grading disputes.)

(2) The person or office receiving a proper request for review or amendment of information must respond to the request within a reasonable period of time, but in cases where a student requests review, no more than forty-five days after the request has been made.

(3)(a) A student who believes his or her request has not been properly answered by a particular person or office should consult the appropriate dean or director having supervisory responsibility for the office.

(b) If a student remains dissatisfied after consulting with the appropriate dean or director, the student may then appeal to the student records officer, who will review the appeal and

may refer it to the university registration and records committee. All cases involving requests for amendment will be referred to the registration and records committee for hearing. In either case, the decision shall be rendered within a reasonable period of time. The decision shall be final, *except as provided in WAC 504-21-080.*

(c) Appeals must be filed with the student records officer within ninety days from the date of the initial request to the custodian of the record.

(d) Eligible students are hereby notified of their right to file a complaint with the Department of Education concerning any alleged failure of Washington State University to comply with the Family Educational Rights and Privacy Act of 1974, as amended.

[Statutory Authority: RCW 28B.30.150, WSR 09-04-060, § 504-21-040, filed 2/2/09, effective 3/5/09. Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g, WSR 95-07-043, § 504-21-040, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-040, filed 5/2/77.]

WAC 504-21-050 Release of personally identifiable records. (1) The university shall not permit access to or the release of education records or personally identifiable information contained therein, other than "directory information," (as defined in subsection (5) of this section), without the written consent of the student to any party other than the following:

(a) School officials with a legitimate educational interest. A school official is a person employed by WSU in an administrative, supervisory, academic or research, or support staff position (including health staff and WSU police); a person or company with whom the university has contracted (such as an attorney, auditor, or collection agent); a person serving on the board of trustees; or a student serving on an official committee (such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks). A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her educational responsibilities.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation of a federally- or state-supported education program or in connection with the enforcement of federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials, and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Persons or organizations, other than parents or legal guardians, providing to the student financial aid, or determining financial aid decisions concerning eligibility, amount, condition, and enforcement of terms of said aid.

(d) Organizations conducting studies for or on behalf of the university for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed

when no longer needed for the purposes for which it was provided.

(e) Education records may be used for legitimate academic research; provided that

(i) The procedures utilized and the reported findings do not violate the student's confidence;

(ii) Students' names will not be included in the study or in any way linked with the data;

(iii) Case histories and case records are sufficiently disguised to prevent identification of the individuals involved; and

(iv) The student's written permission is obtained where individual identification occurs.

(f) Accrediting organizations in order to carry out their accrediting functions.

(g) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that a reasonable attempt has been made to notify the student of all such orders or subpoenas in advance of the compliance therewith unless the subpoena is issued for a law enforcement purpose or is issued by a federal grand jury and the court or other issuing agency has ordered that the existence of the subpoena not be disclosed. Any university employee or office receiving a subpoena or judicial order for education records should immediately notify the WSU division of the office of the attorney general.

(h) Parents or legal guardians of a student who have established that student's status as their dependent according to Internal Revenue Code.

(i) An alleged victim of any crime of violence or non-forcible sexual offense, as they are defined in Appendix A to 34 C.F.R. Part 99, shall be informed of the results of any disciplinary proceeding conducted by WSU against the alleged perpetrator of that crime with respect to that crime.

(j) To the office of the attorney general when disclosure is to comply with a judicial order or to provide legal advice.

(k) WSU may provide to parents or guardians of students under age twenty one information regarding violations of federal, state, or local laws or the university's conduct code where such violations concern the use or possession of alcohol or controlled substances and where WSU determines that those students have committed such violations.

(l) When either the student initiates legal action against WSU or when WSU initiates legal action against the student, WSU may disclose to the court any educational records of the student that are relevant to the legal action.

(m) Information may be disclosed in conformance with other exceptions to the prior written consent requirement of the Family Educational Rights and Privacy Act and implementing regulations found at 34 C.F.R. § 99. A copy of these regulations may be obtained from the Office of the Registrar.

(2) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the person giving such consent, and shall include:

(a) A specification of the records to be released,

(b) The reasons for such release, and

(c) The identity of the parties to whom such records will be released unless the nature of the activity is such that advance identification of recipients is not possible such as employment assistance provided by the university office of career services and placement, in which case an effort will be

made to identify recipients of information as they become known.

(3) In cases where records are made available without student consent as permitted by subsection (1)(b), (c), (d), (e), (f), and (g) of this section (except in cases where the subpoena prohibits disclosure), subsection (1)(i) of this section and, when required by law, subsection (1)(m) of this section the university shall maintain a record which will indicate the parties which have requested or obtained access to a student's records maintained by the university and which will indicate the legitimate interest of the requesting party.

(4) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student unless such disclosures are made pursuant to subsection (1)(g), (h), (j), (k), or (l) of this section or the information released is directory information as defined in subsection (5) of this section.

(5) The term "directory information" used in subsection (1) of this section is defined as student's name (including any former name), local and permanent addresses and telephone numbers, electronic mail address(es), major and minor fields of study, participation in officially recognized activities in sports, weight and height of members of athletic teams, dates of attendance, enrollment status (e.g., undergraduate or graduate; full-time or part-time), grade level, degrees, status as graduate assistant and assignment, certificates, and awards received including the president's honor roll, and the most recent previous educational institution attended by the student. Students may request that the university not release directory information by filing a request online or with the office of payroll services.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).

[Statutory Authority: RCW 28B.30.150. WSR 09-04-060, § 504-21-050, filed 2/2/09, effective 3/5/09; WSR 01-19-027, § 504-21-050, filed 9/13/01, effective 10/14/01. Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g. WSR 95-07-043, § 504-21-050, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-050, filed 5/2/77.]

WAC 504-21-060 University records. All university employees or offices who have custody of education records will develop procedures in accord with WAC 504-21-010 through 504-21-060. Any supplementary regulations found necessary by departments will be filed with the registration and records committee, which will be responsible for periodic review of policy and procedures.

No records shall be kept that reflect a student's political or ideological beliefs or associations.

[Statutory Authority: RCW 28B.30.150. WSR 09-04-060, § 504-21-060, filed 2/2/09, effective 3/5/09. Statutory Authority: RCW 28B.30.095, 28B.30.125 and 28B.30.150. WSR 89-11-065 (Order 89-1, Resolution No. 3-31-89-16), § 504-21-060, filed 5/18/89, effective 7/1/89; Order 77-1, § 504-21-060, filed 5/2/77.]

WAC 504-21-070 Student records officer. The president's designee shall be responsible for reviewing unusual requests for information and for assisting in the interpretation

of these rules. The designee shall also be responsible for hearing appeals as defined in WAC 504-21-040.

[Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g. WSR 95-07-043, § 504-21-070, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-070, filed 5/2/77.]

WAC 504-21-080 Right of student to register objections. Any student who unsuccessfully requests an amendment pursuant to WAC 504-21-040 may submit a written objection regarding his or her education records to the provost, who shall *review the appeal and take necessary action which may include reconsideration by the student records officer or inclusion* of the written objection or summary thereof in such education records; provided, however, no student has any right to post objections to academic grades and have the same appear on the student's academic record.

[Statutory Authority: RCW 28B.30.150. WSR 09-04-060, § 504-21-080, filed 2/2/09, effective 3/5/09. Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g. WSR 95-07-043, § 504-21-080, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-080, filed 5/2/77.]

WAC 504-21-090 Notice of rights given under Family Educational Rights and Privacy Act of 1974. In accordance with the requirements of the Family Education Rights and Privacy Act of 1974, the university will make its best efforts to notify all students of the rights under this act. Such notification shall be done through the Washington Administrative Code procedure, notices to the campus newspaper and radio and television services, and such other publications and media that the university deems appropriate.

[Statutory Authority: RCW 28B.30.150 and 20 U.S.C. 1232g. WSR 95-07-043, § 504-21-090, filed 3/8/95, effective 4/8/95; Order 77-1, § 504-21-090, filed 5/2/77.]