

LEGAL POLICIES

FERPA - Family Educational Rights and Privacy Act

Interpretations of the Family Educational Rights and Privacy Act of 1974 (also known as FERPA or the Buckley Amendment) have important implications for the handling and releasing of student education record information by campus offices and school officials. FERPA applies to the "education records" (see next paragraph for definition) of "students". "Students" are defined as those individuals who are or have been enrolled in classes (credit and/or non-credit) at the University. FERPA does not apply to records of applicants for formal admission to the University who are denied acceptance or, if accepted, do not enroll in classes for credit. In addition, rights are not given by FERPA to students enrolled in one component of the University of Wisconsin-Whitewater who seek to be admitted in another component (e.g., a student enrolled in an undergraduate program, but is denied admission to a graduate program, does not have any FERPA rights in the graduate program which denied him/her admission).

"Education records" are those UW-Whitewater records that are directly related to a student and that are maintained by the University or by a school official who serves the University in an administrative, supervisory, academic, research, or support staff position (including student employees or agents of the University, persons/companies with whom the University has contracted, persons serving on official campus committees, or persons assisting other school officials in performing their tasks).

FERPA indicates that UW-Whitewater "education records" do not include:

- Sole possession records. Records of instructional, supervisory, administrative, and certain educational personnel which are in the sole possession of the maker and are not accessible or revealed to any other individual except a substitute who performs on a temporary basis the duties of the individual who made the records.
Important exception: Notes taken in conjunction with any other person are not "sole possession records". Sharing information with another person or placing information where it can be viewed by others makes it an "education record" and subject to FERPA.
- Law enforcement unit records. Records maintained by a UW-Whitewater law enforcement unit that were created by that unit for the purpose of law enforcement.
Important exception: Placing law enforcement records where they can be viewed or accessed by others outside the law enforcement unit makes them "education records" and subject to FERPA.
- Employment records. Records relating to individuals who are employed by UW-Whitewater which are made and maintained in the normal course of business and relate exclusively to individuals in their capacity as employees, and are not available for any other purpose.
Important exception: Records of students who are employed as a result of their status as UW-Whitewater students are "education records" (e.g., work-study, graduate assistants) and subject to FERPA.
- Doctor-patient privilege (medical) records. Records relating to a student which are (1) created or maintained by a physician, psychiatrist, psychologist, or other recognized professional acting in his/her professional capacity or assisting in a paraprofessional capacity, (2) used solely in connection with the provision of treatment to the student, and (3) not disclosed to anyone other than individuals

providing such treatment, so long as the records can be personally reviewed by a physician or other appropriate professional of the student's choice.

- Post-attendance records. Records that contain only information relating to a person after that person is no longer a student at UW-Whitewater (e.g., information gathered on the accomplishments of alumni).

UW-Whitewater, in accordance with FERPA, has designated categories of information about individual students as public "directory information". The following "directory information" will be routinely released to any inquirer unless the student formally requests that it be restricted:

- Student name
- Address
- Email address
- Telephone number
- Dates of attendance (including term units carried and full-time/part-time status)
- Classification (e.g. sophomore, senior, graduate student)
- Major/minor/degree program Degrees and dates of graduation including anticipated graduation dates
- Previous institutions attended
- Awards and academic honors
- Participation in officially recognized sports and activities
- Physical factors (weight and height) of members of athletic teams

A student has the right to restrict the release of all of the above directory information. A student who wishes to do so must complete and file the "Request to Prevent Disclosure of Directory Information" form in the Registrar's Office. The restriction will remain in effect until the student files written notification with the Registrar's Office to have it removed. A student who has ceased attending UW-Whitewater, and whose directory information was not restricted in his/her last term of attendance, does not have the right to restrict the release of directory information until such time as he/she re-enrolls at the University.

A student who is considering restricting the release of his/her "Directory Information" should weigh carefully the consequences of doing so. If a student decides to inform the University not to release his/her directory information, future requests for such information from non-University persons or organizations will be refused. For example, UW-Whitewater would not release enrollment verification information to the student's health insurance provider or a prospective employer, and the student's name would not appear in the commencement booklet.

In addition to the items listed above, UW-Whitewater has designated photographs and images that are taken of students at University-sponsored activities as information that may appear in University publications, brochures, etc., without the written consent of students.

The essence of FERPA can be summarized by the following two points:

Confidentiality

- School officials must protect the privacy of education records and shall not disclose personally identifiable information about a student or permit inspection of the student's records without his/her written consent unless such action is covered by certain exceptions permitted by FERPA. The student's written, signed consent must:

- Specify the records to be released
- Identify the party or class of parties to whom the records should be released
- Indicate the reason for the release

A consent form can be downloaded from <http://www.uww.edu/registrar/ferpa/>.

Access

- A student must be permitted to inspect his/her own education records (see "Student Access to Education Records" section for information about the process for inspecting education records). FERPA provides the student the right to:
 - Inspect and review his/her education records
 - Request an amendment to the education records if he/she believes there is an inaccuracy
 - Restrict the release of his/her "Directory Information" from public access
 - File a complaint with the U.S. Department of Education if he/she feels the University has failed to follow FERPA guidelines. The name and address of the office that administers FERPA is:

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

Confidentiality of Student Education Records

FERPA generally prohibits the release of confidential personally identifiable student data, with limited exceptions that include "directory information" (see below), without the student's written, signed consent.

Personally identifiable student data, other than "directory information" for students who have not restricted its release, are confidential. Examples of confidential information include, but are not limited to, ID number, social security number, date of birth, ethnicity, gender, country of citizenship, percentile ranks, class schedules (including meeting times and locations), grades, and grade point averages.

Parents have no inherent or legal rights to inspect or receive information about their children's education records, regardless of age, without the written consent of the student.

FERPA provides certain exceptions for the release of personally identifiable education record information without the student's written consent. These exceptions include:

- "Directory Information." (A list of student directory information items is cited in an earlier section of this document.)
- "Legitimate Educational Interest." Personally identifiable education record information may be disclosed without the student's written consent to UW-Whitewater school officials who are determined to have a "legitimate educational interest" - a right to know and a need to know (i.e., the information is necessary to fulfill the official's professional responsibility to UW-Whitewater). Legitimate educational interest means:
 - The official must seek the information within the context of his/her professionally assigned University responsibilities; and

- The information sought must be used within the context of official University business.

Disclosure of education record information to a UW-Whitewater school official having a legitimate educational interest does not constitute institutional authorization for that school official to transmit, share, or disclose any or all of that information to a third party. A disclosure of personally identifiable information from the education record of a student, without the student's written consent, is prohibited unless the disclosure meets one of the specific exceptions cited in FERPA as outlined in the following section.

- Education record information may be disclosed without the student's written consent in the following instances:
 - a. To the student.
 - b. If it is "directory information" and the student has not restricted its release.
 - c. If properly subpoenaed pursuant to a judicial, legislative, or administrative proceeding, provided UW-Whitewater will make a reasonable attempt to notify the student of the subpoena, in cases where FERPA applies, prior to the release of the information.
 - d. In connection with the student's application or receipt of financial aid as necessary to determine the eligibility, amount or conditions of the financial aid, or to enforce the terms or conditions of the aid.
 - e. In connection with audits or evaluation of federal or state supported educational programs requiring disclosure of information.
 - f. To effect collection of past due financial obligations to the University.
 - g. To attorneys representing the University when the data on the student is deemed necessary for the defense of the University in a suit filed by the student.
 - h. To schools in which the student seeks or intends to enroll.
 - i. To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the Department of Education, or state or local educational authorities.
 - j. To the Veterans Administration to determine compliance with educational assistance.
 - k. To organizations conducting studies for or on behalf of the University.
 - l. In connection with a health or safety emergency as determined by the University.
 - m. In connection with a crime of violence or a non-forcible sex offense. The University has the discretion to disclose the final results of any disciplinary proceeding against a student who is an alleged perpetrator of a crime of violence or a non-forcible sex offense if, as a result of that disciplinary proceeding, the University has determined that the student in fact committed the crime or offense. The definition of "final results" is limited solely to the name of the student, the violation committed, and any sanction imposed by the University on that student. Only where a victim or witness has provided written consent may the University disclose the name of that student.
 - n. The University may disclose to a student's parent or legal guardian information regarding any drug or alcohol violation (whether pursuant to federal, state, or local law or institutional policy) where the student is under 21 years of age and the

University has determined the student has committed a disciplinary violation.

UW-Whitewater school officials conducting research using student education records may be required to explain the use of the records in writing. Student organizations that need confidential information about their members may be required to obtain the signatures of all members on a form explaining how the information is to be used (the signatures must be obtained before the information will be released).

School officials who have access to student education record information assume the legal responsibility for protecting the privacy and security of the information.

Student Access to Education Records

The student will have access to education records directly related to him/her that are maintained by the University, or any of its agents, and to which FERPA applies.

A student may request access to review and inspect his/her education records by writing to the University official (i.e., registrar, dean, department chair, or other appropriate UW-Whitewater person/office) responsible for the records. The written request must indicate the records the student wishes to inspect. The University official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the official to whom the request was submitted, that official shall advise the student of the correct person/office to whom the request should be addressed, and it becomes the student's responsibility to submit the request to that person/office. Upon receipt of the written request, the University has 45 days to comply. FERPA does not provide the student with the right to access certain records, including:

1. Sole possession records
2. Parents' financial records used for financial aid purposes
3. Confidential letters and statements of recommendation placed in the student's record prior to January 1, 1975, or confidential recommendations to which the student has given prior written waiver of access and which are used for job placement, admission, or award purposes
4. Law enforcement unit records
5. Certain employment records
6. Doctor-patient privilege (medical) records
7. Post-attendance records

A student has the right to request an amendment of his/her education record that is believed to be inaccurate. However, FERPA was not intended to provide a process to be used by the student to question substantive judgments that are correctly recorded. The FERPA rights of challenge are not intended to allow a student to contest, for example, a grade in a course because he/she felt a higher grade should have been assigned. FERPA is intended to ensure the factual and accurate nature of the information in the student's educational records and the student's right to verify that information.

In those cases where FERPA intended to provide a student the right to request an amendment to an education record, the student should write the University official responsible for the record, clearly identify the part of the record s/he wants changed, and specify why it is inaccurate. If the University decides not to amend the record as requested by the student, the University will notify the student in writing of the decision and advise

the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of this right.

In the process of challenging the education record information, the student may wish to have copies of appropriate documents in his/her education record file. The University may assess the student a reasonable per copy fee for such documents. This charge does not apply to copies of the student's official academic transcript (there is a minimum \$7.00 charge for each official transcript; the fee is subject to change at any time). A request for a copy of any document in an education record will be denied if the student has a hold/service indicator on his/her records that prevents the release of the official academic transcript, or if the document is a transcript of an original or source document which exists elsewhere.

If UW-Whitewater decides, as a result of a hearing, not to amend the education record in accordance with the student's request, the student may place a written statement in the record commenting upon the information therein, and/or setting forth any reason for disagreement with the institutional decision not to amend the record. Such a statement will become part of the student's education record and will be disclosed with it.

The student has a right to file a complaint with the U.S. Department of Education concerning alleged failures by UW-Whitewater to comply with the Family Educational Rights and Privacy Act.

Deceased Student Education Records

FERPA rights cease upon a student's death. Accordingly, the disposition of UW-Whitewater education records pertaining to a deceased student is not a FERPA issue but a matter of institutional policy. UW-Whitewater does not permit the release of education record information of a deceased student for 25 years after his/her death unless authorized by the executor/executrix of the deceased student's estate, or the student's parents, or the student's next of kin if the student's parents are also deceased and an executor/executrix has not been appointed. However, deceased student educational records may be shared with UW-Whitewater school officials who have a legitimate educational interest as defined in earlier sections of the FERPA policy. Records may also be made available for UW-Whitewater research purposes.

Information for Non-Wisconsin Residents Enrolled in Distance Learning Education

Distance Learning Education - State Authorization Reciprocity Agreement

Pursuant to Wis. Stats. Ch. 39.85, et. al, the State of Wisconsin is a member of the State Authorization Reciprocity Agreement (SARA) through the Midwestern Higher Education Compact which regulates the manner in which participating institutions may offer distance learning education to students who reside in other states. The University of Wisconsin-Whitewater is a participating institution in MSARA. The terms and conditions of SARA can be found at <http://nc-sara.org/>. If a student has a complaint that involves distance learning education offered under the terms and conditions of SARA, the student must file a complaint with the institution first to seek resolution. Undergraduate students should follow the grievance procedure found on the Grievance Procedure tab on this page. (<https://www.curr.courseleaf.com/general-information/academic-legal-policies/#grievanceprocedureundergraduatetext>) If no resolution is reached, then the student may file a complaint with the

Wisconsin Distance Learning Authorization Board (DLAB) through the following State Authorization Reciprocity Complaint Process at the following link: <http://www.wisconsin.edu/student-complaints/> or by email to afgp@uwsa.edu. For purposes of this process, a complaint shall be defined as a formal assertion in writing that the terms of this agreement, or of laws, standards or regulations incorporated by the State Authorization Reciprocity Agreements Policies and Standards have been violated by the institution operating under the terms of SARA.

Additional information can be found at <http://www.heab.state.wi.us/DLAB/faq.html>

Georgia Residents

Georgia residents enrolled in fully online programs at the University of Wisconsin-Whitewater are encouraged to utilize the grievance procedure or the UW System complaint process (<http://www.uww.edu/studentaffairs/uw-system-complaint-process/>) for complaints. In addition, Georgia residents are permitted to follow the complaint process by the Nonpublic Postsecondary Education Commission of the State of Georgia.

Maryland Residents

The University of Wisconsin-Whitewater's online MBA program is registered with the Maryland Higher Education Commission. Maryland residents enrolled in the online MBA at UW-Whitewater will be subject to Maryland's refund policy (<http://www.dsd.state.md.us/comar/getfile.aspx?file=13b.05.01.10.htm>).

Maryland residents enrolled in the online MBA program are encouraged to utilize UW-Whitewater's grievance procedure or the UW System complaint process (<http://www.uww.edu/studentaffairs/uw-system-complaint-process/>) before filing a complaint with the following state agency: Maryland Attorney General, Consumer Protection Division, 200 St. Paul Street, Baltimore, MD 21202, or call 410-528-8662, or 888-743-0823 (toll free). UW-Whitewater is subject to investigation of complaints by the Maryland Education Commission.

Minnesota Residents

The University of Wisconsin-Whitewater is a member of the University of Wisconsin System and is registered as a private institution with the Minnesota Office of Higher Education pursuant to Minnesota Statutes, sections 136A.61 to 136A.71. Registration is not an endorsement of the institution. Credits earned at the institution may not transfer to all other institutions.

Professional Licensure

Important Note for Students: If you are considering an online academic program that leads to a professional license, it is highly recommended you contact the appropriate licensing agency where you plan to receive instruction before beginning your academic program. SARA does not provide reciprocity for state professional licensing requirements. Academic programs and individual graduates must meet standards set by that state's licensure requirements in order for a graduate to be eligible for a license.

Legal Services

The Legal Services Program of the Whitewater Student Government provides free legal advice to students one afternoon per week by appointment. Contact the Whitewater Student Government Office, University Center 140, 262-472-1471, WSG@uww.edu, for more information.

The Civil Rights Act of 1964, Title IX, Wisconsin Statute 36.12

The Civil Rights Act of 1964, Title IX of the Education Amendments of 1972 and Wisconsin Statute 36.12 provide collectively, and in part, that no student may be denied admission to participation in, or the benefits of, or be discriminated against in any service, program, course or facility of the (UW) system or its institutions or centers because of the student's race, color, creed, religion, sex, national origin, disability, ancestry, age, sexual orientation, pregnancy, marital or parental status.

The Title IX Coordinator for UW-Whitewater is located in Human Resources & Diversity Office. Title IX specifically prohibits sex discrimination in educational institutions.

1. Criteria for Determining Whether the Prohibition on Discrimination has been Violated.
In determining whether discrimination in violation of Wisconsin Statutes 36.12 or Title IX has occurred, the University of Wisconsin-Whitewater, through its Office for Equal Opportunity (OEO), shall apply state and federal statutes, regulations, and case law relevant to the basis of discrimination being alleged, including but not limited to such legal materials and precedents as Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, American Disabilities Act, Wis. Stats. 101.223, Wis. Stats. 36.11(3)(a), the United States Constitution, the Wisconsin Constitution, and related regulations and case law. In any case where there is a question as to whether the action or conduct in question violates Wis. Stats. 36.12 or Title IX, the OEO shall consult with institutional legal counsel.
2. Deadline for Filing Complaints.
 - a. Complaints alleging a violation of Wis. Stats. 36.12 or Title IX must be brought forward to the Office for Equal Opportunity within 300 calendar days of the alleged violation.
 - b. If a complaint is made informally and orally only, the appropriate response would be oral by way of discussion, guidance, mediation or other informal action. If a formal investigation is warranted or desired, the complaint shall be in writing.
3. Procedures and Remedies for Violations.
 - a. The Office for Equal Opportunity (OEO) will be responsible for:
 - i. Reviewing each complaint.
 - ii. Providing procedural advice and counsel to the complainant, including referring the complainant to another process, if appropriate (as for example, if the issues in question are more properly handled as a grade appeal or a general grievance).
 - iii. Conducting the initial investigation of complaints, including receiving written response(s) by the person(s) complained against.
 - b. Where the Office for Equal Opportunity refers a complainant to another relevant complaint or grievance procedure, further action on the matter will be taken in accordance with that other procedure.
 - c. Where the Office for Equal Opportunity retains jurisdiction and determines after investigation that no discrimination in violation of Wis. Stats. 36.12 or Title IX has occurred, the complaint will be dismissed by the OEO, and the complainant and any other interested parties will be so advised.
 - d. Where the Office for Equal Opportunity determines after investigation that discrimination in violation of Wis. Stats. 36.12 or Title IX has occurred, the OEO may:

- i. Attempt to resolve the matter through mediation among the involved parties; or
 - ii. Recommend remedial action to eliminate the discrimination to the appropriate administrators; or
 - iii. Refer the matter for appropriate review and consideration of possible action under established disciplinary procedures, where misconduct by faculty, staff, or students appears to be involved.
- e. The Office for Equal Opportunity will complete its investigation and make written findings of facts and recommendations in a timely manner upon receipt of the written complaint.
- f. If the matter is referred for consideration of possible disciplinary action under paragraph d.iii. above, the time limit and procedures for such disciplinary matters shall apply.
- g. If the OEO recommendations are accepted by the parties, that will be considered dispositive of the issues.
- h. If either party believes there is reason to appeal the findings or recommendations, it must be done within 10 working days of receipt. The appeal should be in writing, stating the basis and proposing alternatives to the recommendations and forwarded to the Assistant Chancellor for Student Affairs.
- i. The Assistant Chancellor for Student Affairs will review the record and any other information deemed pertinent and may also recommend and/or attempt an alternative resolution. If no resolution is achieved, the Assistant Chancellor will forward a recommendation to the Chancellor within 20 working days of receipt of appeal.
- j. The Chancellor will make the final decision within 20 working days. In all matters involving an alleged violation of Wis. Stat. 36.12 or Title IX, the Chancellor's decision shall be final, except that the Board of Regents may, consistent with the Bylaws of the Board of Regents of the University of Wisconsin System, conduct a review on the record.

Non-Discrimination on the Basis of Disability

Section 504 of the Rehabilitation Act of 1973 provides that “no qualified individual with a disability shall, on the basis of disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity which receives or benefits from Federal financial assistance.”

The Americans with Disabilities Act (ADA, 1990) states that “No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity.” This is reinforced by the Americans with Disabilities Amendments Act (2009).

Applicants or students who believe that they may have been subjected to discrimination on the basis of disability in any campus program, activity, or service should contact the ADA Compliance Coordinator (employment and non-employment) located in Human Resources & Diversity Office.