

**THE UNIVERSITY OF WEST FLORIDA
NOTICE OF PROPOSED AMENDMENT TO REGULATION**

DATE: April 18, 2022

REGULATION TITLE AND NUMBER: UWF REGULATION 3.017 *Student Education Records*

PURPOSE AND EFFECT: The purpose of this amendment is to bring the regulation in line with the Family Educational Rights and Privacy Act of 1974 (FERPA) and Section 1006.52, Florida Statutes.

SUMMARY: The proposed amendment to this regulation is as follows:

- Correction of terminology throughout from educational records to education records
- Inclusion of records of applicants in definition of education records, as per Section 1006.52, Florida Statutes
- Inclusion of Continuing Education records as a category of education record
- Clarified categories of records that are not education records
- Clarified the circumstances under which education records may be released without consent
- General formatting changes

AUTHORITY TO AMEND THE REGULATION: 20 U.S.C. §1232g; 34 CFR Part 99; §1002.225, Fla. Stat.; Florida Board of Governors Regulation 1.001

NAME OF UNIVERSITY OFFICIAL INITIATING PROPOSED REGULATION AMENDMENT: Adam Burgess, Registrar, and Susan A. Woolf, General Counsel

COMMENTS CONCERNING THE PROPOSED REGULATION AMENDMENT SHOULD BE SUBMITTED WITHIN 14 DAYS OF THE DATE OF THIS NOTICE TO THE CONTACT PERSON IDENTIFIED BELOW. In response, the University may solicit additional written comments, schedule a public hearing, withdraw or modify the proposed regulation amendment in whole or in part after notice, or proceed with adopting the regulation amendment. The comments must identify the regulation(s) on which you are commenting.

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED AMENDMENT TO THE REGULATION OR CHALLENGE: Jessica Whittle, Paralegal, Office of the General Counsel at jwhittle@uwf.edu or 850-474-3420 or Office of the General Counsel, Building 10, 11000 University Parkway, Pensacola, Florida 32514.

THE FULL TEXT OF THE REGULATION: The full text of the proposed amendment to the regulation is attached below this Notice. The full text of the proposed amendment and existing regulation is also posted on UWF's website: <https://uwf.edu/offices/board-of-trustees/regulations/>



Number: UWF/REG-3.017
Title: Student Educational Records
Responsible
Department: Registrar's Office and Office of the General Counsel

I. Purpose

Section 1002.225, Florida Statutes, requires state educational institutions to comply with the Family Educational Rights and Privacy Act of 1974 ("FERPA"), codified at 20 U.S.C. ~~s~~ §1232g, and the federal regulations issued pursuant thereto at 34 C.F.R. Part 99. FERPA provides certain rights to university students concerning their ~~student-educational~~ records, as that term is defined by FERPA. Those rights are more fully described in FERPA and in the related federal regulations, and they are summarized in section ~~(3)~~ III of this regulation

II. Definitions

- A. Student's "educational records" are comprised of any written information or recorded data maintained by the University, or by an entity acting on behalf of the University, ~~which that~~ is directly related to a student who is or has been in attendance at the University.
- B. A student is deemed to be "in attendance" at UWF when she or he registers for classes the first time. Thereafter, a student is deemed to be "in attendance" during all periods of enrollment, including between semesters, during University holidays, and during periods of suspension. These designations of "in attendance" are for the limited purposes of the application of FERPA rights at the University of West Florida only.
- C. In accordance with Section 1006.52, Florida Statutes, records of applicants as defined therein are included in the term "education records."

III. Education Records

- A. The following is a non-exhaustive list of categories of ~~educational~~ records along with the University custodian who maintains the records:
 - 1. Academic Records (Departmental) – Faculty Chairpersons and Deans.
 - 2. Academic Records (Permanent) – University Registrar.
 - 3. Career Services – Director, Career Services.
 - 4. Continuing Education Records – Director, Continuing Education.

- ~~4.5.~~ Disciplinary Records – Vice President for Student Affairs.
- ~~5.6.~~ Financial Aid Records – Director, Student Financial Aid.
- ~~6.7.~~ Housing Records – Director, University Housing.
- ~~7.8.~~ Student Activities (including Athletics) - Vice President for Student Affairs

B. The following are ~~some~~ categories of records ~~which that FERPA defines as not constituting student educational records (for a complete list see 20 U.S.C. s 1232g). These categories of records are not subject to this regulation~~ are not education records as defined by FERPA and this regulation:

1. Sole Possession Records - Records maintained by individual University personnel ~~which that~~ are solely in their possession and are not accessible or revealed to others. category
2. Law Enforcement Records - Records maintained by University police ~~which that~~ are for law enforcement purposes.
3. Employment Records - Records maintained by University employees ~~which that~~ relate solely to the student as an employee and are not available for any other purpose.
4. Treatment Records - Records maintained by University medical or psychological personnel ~~which that~~ are solely for treatment and/or counseling purposes.
5. Alumni Records - Records maintained by University personnel which contain only information relating to persons after they have graduated from the University ~~are no longer students.~~
- ~~5.6.~~ Peer Graded Records - Grades on peer-graded papers before they are collected and recorded by a teacher, instructor, or professor.

IV. Student Rights

The rights provided by FERPA can be summarized into three categories. A student has a right:

- A. of privacy in his or her ~~student educational~~ records, subject to exemptions provided by law;
- ~~B.~~ of access to his or her ~~student educational~~ records, such that s:
- ~~C.~~
- ~~D.B.~~ Students who are or have been in attendance at the University are permitted to inspect and review their ~~student educational~~ records; and:
- ~~E.C.~~ of to challenge enge the content of his or her ~~student educational~~ records. Students may challenge the accuracy of their ~~educational~~ records and request the University to amend them. If the request is refused, students will be so informed and advised of the right to a hearing. Students may place in their ~~educational~~ records a statement commenting upon the contents of the records.

V. Florida Public ~~R~~ecords Law

Section 1006.52, Florida Statutes, makes student educational records, as defined by FERPA and the federal regulations issued pursuant thereto, and applicant records, confidential and exempt from disclosure under Chapter 119, the Florida public records law.

VI. Directory Information

Although students have a right of privacy in their ~~student~~ educational records, FERPA permits the University to disclose to the general public any information from ~~student-educational~~ records ~~which that~~ is designated as “directory information.”

- A. The following student information is designated as directory information by the University and may be released by the University without consent:
1. Name (legal and preferred);
 2. Address (local and permanent);
 3. Enrollment Status (~~e.g.~~ undergraduate or graduate, full-time or part-time);
 4. ~~University assigned~~ E-mail Address (UWF assigned);
 5. ~~Current~~ Telephone number (current local and permanent);
 6. Major field of study;
 7. Participation in officially recognized activities and sports, including the birthdate, place of birth, weight and height of members of University athletic teams;
 8. Dates of attendance at UWF;
 9. Degree(s) earned at UWF;
 10. University recognized Degrees, Certificates, Thesis/Dissertation Titles, Awards and Honors received (including Dean’s List and President’s List);
 11. Grade classification (Freshman, Sophomore, Junior, Senior or Graduate Student); and
 12. Most recent previous educational agency or institution attended.
- B. Opt-Out Provision: Students may refuse to permit the designation of their information as directory information. After electing to withhold directory information electronically or in writing to the Office of the Registrar, Once this is done in writing or on-line through the Registrar’s office, this information will no longer be released as directory information and will only be released with the student’s written consent, ~~through pursuant to~~ an applicable FERPA exemption, or if the opt-out provision is revoked by the student.

VII. Disclosure of Education Records

FERPA also permits the University to release a student’s educational records without the prior consent of the student (in addition to those which that are designated as directory information) under certain ~~other~~ circumstances. Those circumstances are summarized as follows, as These are set forth in 20 U.S.C. s 1232g. These exceptions and include, but are not limited to:

- A. ~~The disclosure is to other school officials, including teachers, within the agency or institution whom the agency or institution has determined to who have legitimate educational interests;~~
- B. ~~The disclosure is to officials of another school, school system, college or institution of postsecondary education university where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer;~~
- C. ~~The disclosure is to authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary, or state and local educational authorities;~~
- D. ~~The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to determine eligibility for the aid, determine the amount of the aid, determine the conditions for the aid, or enforce the terms and conditions of the aid;~~
- E. ~~The disclosure is to state and local officials or authorities to whom this information is specifically allowed to be reported or disclosed pursuant to state statute;~~
- F. ~~The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction;~~
- G. ~~The disclosure is to accrediting organizations to carry out their accrediting functions;~~
- H. ~~The disclosure is to parents, as defined in 34 CRF §99.3, of a dependent student, as defined in section 152 of the Internal Revenue Code of 1986 by the IRS;~~
- I. ~~The disclosure is to comply with a judicial order or lawfully issued subpoena;~~
- J. ~~The disclosure is in connection with a health or safety emergency;~~
- K. ~~The disclosure is information the educational agency or institution has designated as "directory information";~~
- L. ~~The disclosure is to the parent of a student who is not an eligible student or to the student;~~
- M. ~~The disclosure includes only the final results of the disciplinary proceeding conducted by the institution of postsecondary education with respect to an alleged crime or offense, regardless of whether the institution concluded a violation was committed, and is to the victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense;~~
- N. ~~The disclosure is in connection with a disciplinary proceeding at an institution of postsecondary education and it is determined that the student is an alleged perpetrator of a crime of violence or non-forcible sex offense; the student has committed a violation of the institution's rules or policies with respect to the allegation made against him or her; and the institution does not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student;~~
- O. ~~The disclosure is to a parent of a student at an institution of postsecondary education the university regarding the student's violation of any federal, state, or local law, or of any rule or policy of the institution university, governing the use or possession of alcohol or a controlled substance if the institution determines 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 to the parent; or~~
- P. ~~The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 USC~~

~~14071, and the information was provided to the educational agency or institution under 42 USC 14071 and university under applicable federal statutes and guidelines.~~

- ~~A. Written consent by the student in connection with financial aid for which the student has applied or received~~
- ~~B. In a health or safety emergency~~
- ~~C. Upon subpoena or court order~~
- ~~D. To school officials with legitimate educational interests in the records~~

VIII. Legitimate ~~e~~Educational ~~i~~Interest.

~~In accordance with FERPA, t~~The University may disclose personally identifiable information from the education records of a student; ~~without written consent by the student;~~ to appropriate University officials, including faculty and staff, who have been determined to have a legitimate educational interest in viewing such records.

1. A University official is a person employed by the University in an administrative, supervisor, academic, ~~or~~ research, or support staff position (including law enforcement personnel, health staff and student workers); a person or company with whom the University has contracted ~~as its agent~~with to provide a service instead of using University employees or officials (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 an individual, including volunteers, assisting another official in performing his or her tasks.
2. A ~~L~~egitimate ~~E~~ducational ~~I~~nterest exists if a University official needs to review a student educational ~~al~~ record in order to fulfill his or her professional responsibilities for the University.

The following criteria shall be ~~taken into account in~~considered when determining the legitimacy of a University official's access to student records:

- a. ~~Whether t~~The official is seeking the information within the context of the responsibilities that he or she has been assigned. ~~;~~
- b. ~~Whether t~~he information sought will be used within the context of official University business and not for purposes extraneous to the official's area of responsibility or to the University. ~~;~~
- c. ~~Whether T~~he information requested is relevant and necessary to the accomplishment of some task or to making a determination within the scope of University operations. ~~;~~ and
- d. ~~Whether t~~he task is determined to be consistent with the purposes for which the data are maintained.

IX. Complaints

Students may file complaints concerning an alleged failure by the University to comply with the requirements of FERPA with the ~~Family Policy Compliance~~Student Privacy Policy Office, U.S. Department of Education, 400 Maryland Avenue S.W., Washington, D.C. 20202-~~5920~~8520.

Effective Date: [date]

Authority: 20 U.S.C. §1232g; 34 CFR Part 99; §1002.225, Fla. Stat.; Florida Board of Governors Regulation 1.001; ~~Section 1002.225 FS; 20 U.S.C. 1232g~~

History: New 10/24/1979, Formerly 6C6-3. 17. Converted to UWF/REG 3.017-7/21/2005. Amended 8/10/2009; 6/7/2011; 6/13/2014; 3/23/2017; 4/--/2022.

Last review: [date]