

POL 02.65.01

The University of North Carolina at Pembroke Policy in Reference to the Federal Family Educational Rights and Privacy Act of 1974

NOTICE: This policy/regulation is presented in its format as of the date of posting to this website. The university is in the process of conducting a thorough review of all its policies and regulations. This policy/regulation has not yet been reviewed/vetted in accordance with [REG 01.20.01](#).

Authority: Board of Trustees

First Issued:

Related Policies:

- [UNC Policy Manual 700.2\[R\] – Regulations of UNC General Administration with Respect to the Family Educational Rights and Privacy Act](#)

Additional References:

- [U.S. Department of Education](#)
- [UNCP Academic Catalog](#)

Contact Information: Office of the Registrar, 910.521.6298

1. OVERVIEW CONCERNING THE INSPECTION AND RELEASE OF STUDENT RECORDS

1.1 Notice Concerning the Inspection and Release of Student Records

1.1.1 The University of North Carolina at Pembroke complies with all provisions of the [The Family Educational Rights and Privacy Act of 1974](#). The full statement of the university's policy is available in the Office of the Registrar located in Lumbee Hall. With some exceptions, students have the right to inspect and to challenge the contents of their education records. Access to academic records is coordinated through the Registrar's Office. Students wishing to inspect their records should contact the university registrar in Lumbee Hall between the hours of 8:00 and 5:00 p.m., Monday-Friday, while the University is in session. (See Appendix F)

1.1.2 The university routinely releases to the public so-called directory information, as follows: the student's name, address, telephone listing, electronic mail address, major field of study, participation in officially recognized activities and sports, weight and height of athletic teams, dates of attendance, degrees and awards received, and previous educational agency or institution attended by the student. Any student who wishes to have the above Directory Information withheld must complete and sign a request in the Registrar's Office. (See Appendix C) *This request is active until the student completes a form to release the Request for Revocation of Non-Disclosure of Directory Information ([Appendix E](#)).

1.2 Federal Family Educational Rights and Privacy Act of 1974 as stated in the University of North Carolina at Pembroke [Academic Catalog](#).

1.2.1 Certain personally identifiable information about students (“education records”) may be maintained at The University of North Carolina General Administration, which serves the Board of Governors of the University system. This student information may be the same as, or derivative of, information maintained by a constituent institution of the university; or it may be additional information. Whatever their origins, education records maintained at General Administration are subject to the Federal Family Educational Rights and Privacy act of 1974 (FERPA).

1.2.2 FERPA provides that a student may inspect his or her education records. If the student finds the records to be inaccurate, misleading, or otherwise in violation of the student’s privacy rights, the student may request amendment to the record. FERPA also provides that a student’s personally identifiable information may not be released to someone else unless (1) the student has given a proper consent for disclosure (See Appendix B) or (2) provisions of FERPA or federal regulations issued pursuant to FERPA permit the information to be released without the student’s consent.

1.2.3 A student may file with the U.S. Department of Education a complaint concerning failure of General Administration or an institution to comply with FERPA.

1.2.4 The policies of The University of North Carolina General Administration concerning FERPA may be inspected in the office at each constituent institution designated to maintain the FERPA policies of the institution. Policies of General Administration may also be accessed in the Office of the Secretary of The University of North Carolina, General Administration, 910 Raleigh Road, Chapel Hill, NC.

1.2.5 Further details about FERPA and FERPA procedures at General Administration are to be found in the referenced policies. Questions about the policies may be directed to Legal Section, Office of the President, The University of North Carolina, General Administration, Annex Building, 910 Raleigh Road, Chapel Hill, NC (mailing address P.O. Box 2688, Chapel Hill, NC 27515-2688; tel: 919-962-4588). Edition 5/97.

1.3 To Whose Records Does the Act Apply?

1.3.1 The Act applies to all education records maintained by the University of North Carolina at Pembroke, or by any parties acting on behalf of the institution, which are directly related to the student. Records containing a student’s name, social security number, or other personally identifiable information, in whatever medium, are covered by FERPA unless identified in one of the Act’s excluded categories to include:

1.3.1.a. Records maintained by the law enforcement unit of the university that were created by the unit for the purpose of law enforcement and are not shared with others;

1.3.1.b. Records related to employees of the university;

1.3.1.c. Medical records or records created by or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional, acting in that professional

capacity; used solely in connection to treatment of the student; and not to be disclosed to anyone other than the individuals providing such treatment, so long as the records can be personally reviewed by the physician or other appropriate professional of the student's choice. This does not include remedial activities which are part of the program of instruction at the university; and

1.3.1.d. Records of the university which contain information relating to the student is no longer a student of the university (e.g. information gathered for alumni purposes).

1.4 Definitions

1.4.1 Eligible Students. An eligible student who is protected under the Act, is defined as a student who has reached the age of 18 or is enrolled at an institution of postsecondary education. Persons who have applied to the University of North Carolina at Pembroke, but were not accepted, have no rights under FERPA. Additionally, students' rights under FERPA shall commence upon the first day of their enrollment in their academic course of study.

1.4.2 Enrolled Student. An eligible student who is protected under the Act, is defined as a student who has reached the age of 18 or is enrolled at an institution of postsecondary education. Persons who have applied to the University of North Carolina at Pembroke, but were not accepted, have no rights under FERPA. Additionally, students' rights under FERPA shall commence upon the first day of their enrollment in their academic course of study.

1.4.3 Education Record. Education records are those records which are (1) directly related to a student and (2) maintained by an institution or a party acting for the institution.

1.4.4 Personally Identifiable Information. Data or information which include the name of the student, the student's parent, or other family members, the student's address; a personal identifier such as a social security number or student number; or a list of personal characteristics or other information which would make the student's identity traceable. We include the GPA (grade point average, race, and gender in this pool of information. The release of an address, albeit public and directory information, should be disclosed with caution or not at all, if the institution does not feel it is the identity-safe interests of the student.

1.4.5 Directory Information. The University routinely releases to the public so-called directory information, as follows: the student's name, address, telephone listing, electronic mail address, major field of study, participation in officially recognized activities and sports, weight and height of athletic teams, dates of attendance, degrees and awards received, and previous educational agency or institution attended by the student.

1.4.6 University Official or person with Legitimate Educational Interest. Members of an institution who act in the student's educational interest within the limitations of their "need to know." These may include faculty, administration, administrative assistants and professional employees and other persons who manage student education record information. Student employees and other agents the school defines as a university official.

1.4.7 Legitimate Educational Interest. It must be demonstrated by the university official, that the party is acting in the student's best educational interest, and this should be demonstrated to the

records custodian, or other means for justifying research.

1.5 Parents' Access to Their Student's Education Records According to FERPA

1.5.1 The following four statements summarize FERPA's position regarding to parental access to their child's records:

1.5.1.a. when a student reaches the age of 18 or begins attending a postsecondary institution, regardless of age, FERPA rights transfer from the parent to the student;

1.5.1.b. parents may obtain directory information at the discretion of the institution;

1.5.1.c. parents may obtain non-directory information (grades, GPA, etc.) at the discretion of the institution and only after it has been determined that their child is legally their dependent (e.g. stated on most recent tax return); and

1.5.1.d. parents may also obtain non-directory information by obtaining a signed consent from their child, under non-coercive direction from the parents. Students should be alone or in a guarded area and advised on the policy and able to give their own discretion, or non-discretion of access to their education record. A good place to do this is at new student orientations. While students are separate from parents in the orientation labs, they could be advised about their rights, and if they choose, could sign a consent form at that time; or they could visit the Office of the Registrar to sign the consent form.

1.6 Annual Notification to Students of Privacy Rights Under FERPA

1.6.1 As long as every student at the university is given an institutional email address, then the school may send out the annual notification to the students via email to their students.

1.6.2 The University Registrar, at the beginning of every academic year, will distribute via email, an Annual Notification to Students of Privacy Rights Under FERPA (see Appendix A) to all currently enrolled students. Additionally, the university notifications can be found in the [UNCP Academic Catalog](#), p. 68 and the [Student Handbook 2011-2012](#), p. 119-120, and the [Registrar's webpage](#) on the university website.

1.7 Who FERPA Applies to and Enforcement and Penalties

1.7.1 FERPA applies to all educational agencies and institutions who receive funding under most programs administered by the Secretary of Education (34 C.F.R. 99.I). Any post-secondary institution, whether private or public, who receive funding, must comply with FERPA.

1.7.2 The penalty for non-compliance with federal regulations can be a loss of receiving federal funds from the Department of Education, but this action is generally only taken if compliance cannot be secured by voluntary means.

1.8 Disclosure of Education Record Information

1.8.1 The University of North Carolina at Pembroke must obtain written consent from a student before disclosing any personally identifiable information (i.e. non-directory information). The disclosure must:

1.8.1.a. specify the record to be released;

1.8.1.b. state the purpose of the disclosure;

1.8.1.c. identify the party to whom disclosure may be made; and

1.8.1.d. be signed and dated by the student.

1.8.2 Requests for official transcripts are on file with the Office of the Registrar. (See Appendix H)

1.9 Exceptions to Written Consent Requirement

1.9.1 The university may disclose education records or parts of without written consent to authorized representatives of the following for auditing purposes for evaluation of federal and/or state supported programs or for enforcement of or compliance with, federal legal requirements which relate to those programs:

1.9.1.a. the comptroller general of the United States;

1.9.1.b. the attorney general of the United States;

1.9.1.c. the secretary of the Department of Education;

1.9.1.d. state and local educational authorities;

1.9.1.e. state and local officials to whom disclosure is specifically required by state statute adopted prior to November 19, 1974;

1.9.1.f. veterans' administration officials [not covered by FERPA but specified under 38 U.S.C. 1790 ©];

1.9.1.g. other school officials within the institution determined by the institution to have a legitimate educational interest;

1.9.1.h. officials of other institutions in which a student seeks or intends to enroll on the condition that the issuing institution makes a reasonable attempt to inform the student of the disclosure unless the student initiates the transfer, or the institution's annual notification of rights under FERPA includes a statement that the institution forwards education records to other institutions that have requested the records in which the student seeks or intends to enroll;

1.9.1.i. persons (other than parents) or organizations providing financial aid to students, or determining financial aid decisions on the condition that the information is necessary to:

determine eligibility for aid; determine the amount of the aid; determine the conditions for the aid; and enforce the terms and conditions of the aid;

1.9.1.j. organizations conducting studies for or on behalf of, educational agencies or institutions to develop, validate, and administer predictive tests, to administer student aid programs or to improve instruction. Those organizations may not disclose personally identifiable information on students, and information secured must be destroyed when no longer needed for projects. Institutions should obtain such assurance in writing;

1.9.1.k. accrediting agencies carrying out accrediting functions;

1.9.1.l. parents of a student who have established that student is a dependent according to [Internal Revenue Code of 1986, Section 152](#);

1.9.1.m. persons in compliance with a judicial order or a lawfully issued subpoena, provided that the institution makes a reasonable attempt to notify the student in advance of compliance. (Note: the institution is not required to, and should not, notify the student if a federal grand jury subpoena, or any other subpoena issued for a law enforcement purpose, orders the institution not to disclose the existence or contents of the subpoena);

1.9.1.n. an institution is not required to obtain a subpoena to produce education records of a student, if the institution is sued by the student, or takes legal action against a student. The records produced must be needed by the institution to proceed with legal action as plaintiff or to defend itself;

1.9.1.o. the attorney general of the United States or to his/her designee in response to an ex parte order in connection with the investigation or prosecution of terrorism crimes specified in 18 U.S.C.2331 and 18 U.S.C. 2332b(g)(5)B);

1.9.1.p. persons in an emergency, if the knowledge of information, in fact, is necessary to protect the health or safety of students or other persons;

1.9.1.q. a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the “definition of terms.” The disclosure may only include the final results of the disciplinary proceeding conducted by the institution with respect to that alleged crime or offense. The institution may disclose the final results of the disciplinary proceeding, regardless of whether the institution concluded a violation was committed;

1.9.1.r. interested individuals (the public) subject to the requirements in [Section 99.39](#) on page 17 of the Guide in connection with the final results of an institutional disciplinary proceeding. The institution must not disclose the final results of the disciplinary proceeding unless it has determined that:

1.9.1.r.1. the student is an alleged perpetrator of a crime of violence or non-forcible sex offense;

1.9.1.r.2. with respect to the allegation made against him or her, the student has committed a violation of the institution’s campus policies; and

1.9.1.r.3. the final results must include only: the name of the student, the violation committed, and any sanction imposed by the institution against the student. The institution may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.

1.9.1.s. parents regarding the student's violation of any federal, state, or local law, or of any campus policy or rule governing the use of alcohol or a controlled substance if:

1.9.1.s.1. the institution has determined that the student has committed a disciplinary violation with respect to that use or possession; and

1.9.1.s.2. the student is under the age of 21 at the time of disclosure to the parent.

1.9.1.s.3. this item does not supersede any law that prohibits an institution from disclosing this information.

1.9.1.1 Should personally identifiable information be released, as a general rule, the institution is not to be permitted to disclose the information to others without the written consent of the student. An example might be:

1.9.1.1.1 "The attached information has been forwarded to you at the request of the student with the understanding that it will not be released to other parties. [The Family Educational Rights and Privacy Act of 1974](#), as amended, prohibits release of this information without the student's written consent. Please return this material to us if you are unable to comply with the condition of release."

1.10 Challenging the Contents of Education Records

1.10.1 Request to Amend Records will follow the guidelines outlined by the [University of North Carolina General Administration policy](#) (Sec II, letter C). A committee will be appointed by the University Registrar to lead the appeal process.

1.10.2 Requests to amend education records at the University of North Carolina at Pembroke will be forwarded to the university registrar to determine the appropriate action, if any, is appropriate with respect to related educational records. If the registrar (or records custodian) agrees with the request for amendment, the custodian will amend the records and notify the student. If the custodian does not agree with the request for amendment, the custodian will inform the student of his or her right to a formal hearing. All formal hearings will be conducted by a committee (Education Records Committee title used at General Administration and henceforth the "committee").

1.10.3 The committee members shall be appointed the registrar or other appropriate party as determined by the chancellor or provost. No member of the committee shall be appointed to participate in the hearing whose outcome the member has any direct interest. Should the student and the University of North Carolina at Pembroke agree that a written explanation alone is the appropriate means to be heard, the student has this right, in lieu of requesting a formal hearing, to

place a statement in his or her education records commenting on the information in question and/or setting forth any reasons for disagreeing with the custodian's decision not to amend. This statement will be maintained as a part of the student's education record, as long as the record, or the contested portion of the record, is maintained by the University of North Carolina at Pembroke and the statement will be disclosed to any party to whom the contested portion of the record is disclosed thereafter.

1.10.4 A student's request for a formal hearing must be submitted within fifteen (15) days after the student receives notice from the custodian of his or her right to a formal hearing and must be addressed to the university registrar (or appointed committee lead), written, be signed by the student, and containing a written statement describing the nature of the student's grievance.

1.10.5 A hearing will be held within a reasonable time after receipt of the student's request, and he or she will be given reasonable notice of the date, place, and time of the hearing.

1.10.6 The student will be afforded a full and fair opportunity to present evidence relevant to the issues raised in the complaint. The committee's decision will be based solely on the evidence presented at the hearing and will include a summary of the evidence and the reason(s) for the decision. The student will be notified in writing of the committee's findings and recommendations within a reasonable period of time after the conclusion of the hearing. If the committee decides that the challenged information within the student's education record is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will recommend that the appropriate university official amend the student's education records accordingly, and the official will inform the student in writing when the amendment has been made.

1.10.7 If the committee decides that the challenged information from the student's education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will inform the student that he or she has the right to place a statement in his or her education records commenting on the information and/or setting forth any reasons for disagreeing with the committee's decision. Any statement will be maintained and disclosed as aforementioned. Note: See Appendix F for Request to Amend or Remove Education Records and Appendix D Request for Formal Hearing to Amend or Remove Education Record.

1.11 Identifying a Student Calling the University from a Distant Location

1.11.1 There are times when a student needs certain information pertaining to his or her education record, via the telephone, and does not know the Banner student identification number. There are certain personally identifiable elements that can be used to identify a caller. As with any student record, extreme caution should be exercised if a staff member is not completely sure that the caller is in fact, the student, and should be referred to a supervisor.

1.11.2 A list of common identifiers has been compiled by a campus wide representative committee appointed by the Executive Staff. These pieces of data can be requested of the student to assist in identifying who you are speaking to without the student's permission, ultimately, we do not have to disclose the information if we do not feel confident we are speaking to the student. The student should correctly answer the following:

1.11.2.1. Mandatory Information (at least 3 of the following):

1.11.2.1.a. banner ID number (student identification number);

1.11.2.1.b. last four digits of social security number;

1.11.2.1.c. first, middle initial, and last name; and

1.11.2.1.d. pass phrase used by the Office of the Registrar.

1.11.2.2 One data element below may be used in place of one of the above:

1.11.2.2.a. birthdate;

1.11.2.2.b. permanent address; and

1.11.2.2.c. driver's license (may be on file with the Admissions Office or Registrar)

1.11.2.3 Other non-directory related elements may be asked for and if correctly answered by the student, will aid in determining if you are in fact, speaking with the student. They are:

1.11.2.3.a. place of birth;

1.11.2.3.b. parent name and address (on application);

1.11.2.3.c. high school or other school attended;

1.11.2.3.d. major program of study;

1.11.2.3.e. recent classes taken;

1.11.2.3.f. honors received / degrees awarded (if student has graduated)

1.12 Use of the United States Postal Service as safe medium for releasing student information

1.12.1 As a safe resort, staff members can provide information in writing to the student via the United States Postal Service to the student's permanent address on file in the Banner student information system.

1.13 Grades

1.13.1 The public posting of grades by name, social security number, or even the school ID without a student's written consent, is in violation of FERPA. This includes posting of grades to a class via the institutional website and applies to posting of grades for students taking distance education courses.

1.13.2 Individual numbers or code words created between the faculty member and student solely for the purpose of posting grades could be assigned to each student as an option, if these numbers are known only to the student and faculty member. Email is slightly safer. However, if an unauthorized third party gains access to the student's email, then the institution could be held responsible.

1.13.3 The safest measure is an institutionally secure student information system self-service option as in Bravemail, where students must have a log in user name and password to enter the site. This method should be the university's official means of students' accessing their grades.