25 Legal Requirements

25.1 Family educational rights and privacy act (FERPA) information

FERPA (family educational rights and privacy act) is a federal law that all WSU employees must follow regarding the rights of students and their education records. Each employee, prior to receiving access to education records, must go through a training that outlines the basics of the law including the privacy of education records.

This training is required to be renewed every three years, both to provide a refresher on the material and to update staff and faculty on any changes in federal law or WSU policy regarding FERPA.

FERPA is a federal law protecting the privacy of students' educational records. It applies to all post-secondary institutions that receive federal funding, such as Washington state university. FERPA gave certain rights to students regarding their education records, including:

- The right to inspect their records
- The right to amend their records
- The right to some control over the release of their records

FERPA applies to all students, both current and former, who are or have ever been enrolled at Washington state university. WSU defines "enrolled" as being enrolled on or after the first day of classes for a term. Once a student has been enrolled for a term, WSU will maintain official records on that student, including a transcript.

Any record containing information that is directly related to a student and is maintained by the institution is an education record and protected by FERPA. This includes enrollment information, grades, advising files, admission information and any other record related to the student.

Education records do not include:

- Medical records maintained by health care professions providing treatment, including psychological counselors
- Employment records unless employment is contingent on being a student
- 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.
- Information on a person that was obtained when no longer a student (i.e., alumni records) and does not relate to the person as a student
- Records/notes in sole possession of maker not accessible or revealed to any other person except a temporary substitute

Records can be in many forms including paper, e-mails, web pages, assignments that have been collected and recorded, and electronic databases and files.

Any questions about what is considered an education record and subject to FERPA can be directed to the Registrar's Office or to the attorney general's office.

25.1.1 FERPA guidance regarding student work

Pending completion of a revised comprehensive website in the Registrar's Office regarding FERPA, a federal law protecting the privacy of education records, we believe some interim guidance will be useful as we approach the end of the term. We thank our colleagues at Indiana University, Bloomington, for their summary of FERPA’s provisions on handling student work (http://registrar.indiana.edu/policies/FERPA/student-privacy-faculty.shtml).

Under the family educational rights and privacy act (FERPA), a student has right to inspect and review his or her education records, to request correction of inaccurate and misleading data, and to consent to disclosure of personally identifiable information contained in the student’s education records.

25.1.2 Obtaining consent from students

Once a student begins attending an institution of post-secondary education, all privacy rights move to that student and away from the parents. Thus, student educational records are considered confidential and may not be released to third parties (including parents) without the written consent of the student.

Such things as progress in a course, academic deficiency, scores and grades on papers, exams, and so on are all examples of information that make up part of the student’s education record. This information is protected under FERPA and parents, family members, guardians, or others may not have access unless the student has provided written authorization that specifically identifies what information may be released to the specific party.

25.1.3 Posting grades

The public posting of grades either by the student’s name, student identification number or social security number, without the student's written permission, is a violation of FERPA even if the names are obscured. Consider using university tools such as blackboard that have built-in security mechanisms.

25.1.4 Returning graded papers and assignments
Distributing graded work in a way that exposes the student’s identity or leaving personally identifiable graded papers unattended is no different from posting grades publicly. If the papers contain “personally identifiable” information, then leaving them unattended for anyone to see is a violation of FERPA. Using readily available tools (e.g., blackboard) to distribute grades or graded papers should be given first consideration. Other possible solutions for distributing grade information to students would be to leave graded papers (exams, quizzes, and homework) with a departmental or program assistant who will ask students for proper identification prior to distributing them; leave graded work in a sealed envelope with only the student’s name on it; or use a code name or number known only to the student and faculty member to identify graded work.

25.1.5 Sending grades to students or posting on websites

Instructors can notify students of their final grades via the U.S. mail if the information is enclosed in an envelope. Notification of grades via a postcard violates a student’s privacy. Posting grades on a web site that is open to public access or in a way that exposes individual grades to other class members also violates students’ privacy. The preferred method for communicating about grades is through blackboard.

Office of the Provost, Registrar’s Office, March 2018

Additional information

If you have any questions on what you can or cannot release, please contact the office of the registrar at 509-335-5346.

For more information on FERPA, visit the website of the family policy compliance office.

25.2 Reasonable accommodation

In order to have an equal opportunity to convey their knowledge, students with certain disabilities or chronic medical conditions require reasonable accommodations. Without these accommodations, they are at a distinct disadvantage for competing on an equal playing field. Accommodations are not to compromise the integrity of the learning objectives or course goals. In addition, all accommodations must be clearly supported by disability/medical documentation. A list of common accommodations and further information is available on the access center website.

25.2.1 Flexible attendance

For students with certain disabilities or chronic medical conditions (chronic migraines, seizure disorders, sleep disorders, cancer treatment), flexible attendance is considered a reasonable accommodation. Students are required to meet with each of their faculty members to discuss their attendance needs and to complete a flexible agreement form before attendance becomes an issue. Please note: the student and faculty member must engage in a conversation to arrive at a reasonable agreement for flexible attendance. Faculty members are encouraged to include the student’s access advisor in these conversations. Please carefully read flexible attendance guidelines to understand the procedures and student and faculty responsibilities.

25.2.2 Approved service animal

Students with certain disabilities benefit from the assistance of a trained service animal (dogs or miniature horses, as defined by the ADA). Service animals are not required to be approved through the access center, unless students reside in university housing.

Instructors may ask a student with a service animal two questions:

1. Is this animal required due to a disability? (yes/no)
2. What task is the animal trained to perform?

Instructors may not ask the animal to perform the task. Service animals must be well-behaved at all times. If they are not well-behaved, instructors have the right to ask the student to remove the animal.

25.2.3 Medical emergencies

In the case of medical emergencies in the classroom, faculty are asked to call 911 to request assistance.

25.2.4 Responsibilities:

- Access center responsibilities: the access center is responsible for approving accommodations, to advocate on behalf of students, and to assist with the implementation of accommodations, working with both instructors and students when questions or concerns arise.
- Faculty responsibilities: instructors are responsible for putting into place the approved accommodations. Instructors may question certain accommodations or how best to put accommodations into place. Instructors are asked to consult with the student’s access advisor when there are questions. Accommodations are to provide equal access and are not to compromise the integrity of the course, the course requirements or the student’s learning.
- Student responsibilities: although students no longer will be hand delivering paper copies of their accommodations to instructors, students are expected to meet in person with each of their instructors within two weeks of receipt of the faculty notification letter. There are a few accommodations that require a face-to-face meeting (e.g., flexible attendance; memory aids).
25.3 Accommodation process

25.3.1 Overview:
The WSU Pullman access center has transitioned to a new online accommodation management system (AIM; MyAccess). All notification of student accommodations and all testing procedures will now be handled through this new system. Students will request accommodations online and instructors will submit proctoring instruction forms and exams online.

25.3.2 Faculty notification of student accommodations
Once a student has requested accommodations through AIM (MyAccess), a faculty notification letter (FNL) will be generated and sent via email to each course instructor which outlines specific accommodations that are reasonable and appropriate for that student in that course. Faculty notification letters will be sent out starting the week of August 15. Note: since these emails are generated by AIM, they may initially go to your spam folder. Please double-check, especially if your student must remind you to complete the testing form (see below).

25.3.3 Faculty role with regard to testing accommodations:
Instructors play an active role with students receiving testing accommodations. Before your students can actually register (through MyAccess) to take their exams at the access center, instructors must first complete and submit an alternative testing agreement form (i.e. A proctoring instruction form) through AIM. The link to this form is located inside a red box within each faculty notification letter (FNL).

Important note for global campus/distance instructors: Global Campus courses, or courses whose exams are proctored through global campus, as well as instructors on Everett and Bremerton campus, are requested to respond to the alternative testing agreement by checking the box “I will be proctoring my own exams” if given this link. This will prevent instructors from receiving multiple emails which do not pertain to testing accommodations in the online/distance environment. Additional information regarding testing accommodations for online/distance students can be found at both the access center and Global Campus websites.

Please contact the Access Center with any questions (access.center@WSU.edu; 509-335-3417).

Access Center 2017