

REGENTS' POLICY
PART IX – STUDENT AFFAIRS
Chapter 09.04 - Education Records

P09.04.010. General Statement Regarding Education Records.

- A. The University of Alaska will comply with the Family Educational Rights and Privacy Act of 1974 and its implementing regulations, as amended (FERPA), and, in so doing, protect the required confidentiality of and access to education records of current and former students. In the event there is a conflict between FERPA and regents' policy, university regulation, and/or MAU rules and procedures, the provisions of FERPA will control. To the extent this policy and university regulation and MAU rules and procedures express substantive or procedural rights or promote expectations that do not otherwise exist in FERPA, they give rise to no rights to enforcement or review outside of internal university processes, such as courts or administrative agencies.

- B. The president and chancellors, respectively, will establish university regulation and MAU rules and procedures consistent with FERPA and regents' policy that will ensure the appropriate confidentiality of education records. Where practicable, chancellors will develop common practices among MAUs which contribute to efficiency of service and appropriate access to education records. Each chancellor will designate a custodian of education records for the MAU.

(02-20-98)

P09.04.020. Education Records Definitions.

The president may establish definitions applicable to this policy in university regulation.

(02-20-98)

P09.04.030. Composition of Education Records.

- A. Education records are those records directly related to a student and maintained by the university. Education records may be located in several different offices, depending upon the type of record. Education records include, but are not limited to:
 - 1. academic evaluations, including student examination papers, transcripts, test scores, graduate advisory committee reports when applicable, and other academic records;
 - 2. general advising records;
 - 3. disciplinary records;
 - 4. financial aid records, including student loan collection records; and
 - 5. employment records of students whose employment is contingent on their status as students, for example, work-study.

- B. Documents and materials not considered part of the education record will be established by the president in university regulation.

(12-12-14)

P09.04.040. Annual Notification of Rights.

Students enrolled in or registered with the university will be informed annually of their rights under FERPA. The president will establish in university regulation the content of the notification, such means and timing of distribution as are reasonably likely to inform students of their rights, and the procedures for exercising such rights.

(02-20-98)

P09.04.050. Inspection and Review of Education Records by Students.

- A. Except as otherwise provided, students will be permitted to inspect and review their education records. The right of inspection and review includes:

1. the right to an explanation and interpretation of the record; and
2. the right to a copy of the education record in accordance with the fee schedule established by each chancellor for the MAU.

- B. The right of inspection and review does not apply to records accumulated by the university that pertain to a student's application for admission to a program until such time as the student has been admitted to the program. Thus, an individual who is currently or has been enrolled in a university program and who applies for admission to another program at the same or another MAU has no right to inspect the records accumulated by the program into which admission is sought until the individual is enrolled therein.

- C. No fees will be assessed for searching for or retrieving an education record. Fees for copies may be assessed as long as the fee does not prohibit a student from inspecting and reviewing the student's education record. The president will establish procedures for the inspection and review of education records in university regulation.

(02-20-98)

P09.04.060. Disclosure of Personally Identifiable Information.

Personally identifiable information will not be released from an education record without the written consent of the student except for permissible disclosure of public information and except as otherwise permitted by FERPA or by university regulation. Such written consent must:

- A. specify the records to be released;
- B. state the purpose of the disclosure;

C. identify the party or class of parties to whom disclosure may be made; and

D. be signed and dated by the student.

(02-20-98)

P09.04.070. Records Regarding Requests for Access to and Disclosures of Education Records.

Each MAU will maintain a record of each request for access to education records and of each disclosure, in accordance with FERPA and as established by the president in university regulation.

(02-20-98)

P09.04.080. Amending Education Records.

A student may request that the content of the student's record be amended on the grounds that the information contained in the record is inaccurate, misleading, or in violation of the privacy or other rights of that student. The president will establish procedures for challenging and amending the content of a record in university regulation.

(02-20-98)

P09.04.090. Public Information.

The president will establish the items regarding a student that are considered public information. Public information is that information about a student that a university will, at its discretion, make public in ways such as a student directory or news releases unless the student requests that it not be released. Students will be given the opportunity to make such request on registration documents and in other ways designated in university regulation on annual notification of rights. For purposes of this section, "public information" is intended to mean "directory information" as used in FERPA.

(06-06-07)

UNIVERSITY REGULATION
PART IX – STUDENT AFFAIRS
Chapter 09.04 - Education Records

R09.04.020. Education Records Definitions.

A. Campus Police

Campus police means any individual, office, department, division, or other component of the university, such as a unit of commissioned police officers or non-commissioned security guards, that is officially authorized or designated by the university to:

1. enforce any local, state or federal law, or refer to appropriate authorities a matter for enforcement of any local, state or federal law against any individual or organization other than the university itself; or,
2. maintain the physical security and safety of the university.

A component of the university does not lose its status as campus police if it also performs other, non-law enforcement functions for the university, including investigation of incidents or conduct that constitutes or leads to a disciplinary action or proceeding against the student.

B. Campus Police Records

Campus police records constitute those files, documents, and other materials that are created and maintained by a campus police department for law enforcement purposes. Campus police records do not include records created and maintained by the campus police department exclusively for a non-law enforcement purpose, such as a disciplinary action or proceeding conducted by the university.

C. Disclosure

Disclosure means to permit access to, or the release, transfer, or other communication of personally identifiable information contained in an education record by any means, including, but not limited to, oral, written or electronic means, to any party identified as the party that provided or created the record

D. FERPA

FERPA refers to the Family Educational Rights and Privacy Act of 1974, and its implementing regulations, as amended.

E. Legitimate Educational Interest

A legitimate educational interest is held by a university official if the information requested is necessary for that official to perform work appropriate to the official's position.

F. Personally Identifiable Information

Personally identifiable information refers to any information or data which identifies or describes a student. Personally identifiable information includes, but is not limited to, a student's name; the name of a student's parent or other family members; the address of a student or student's family; any personal identifier such as a student's social security number, student number, or biometric record; other indirect identifiers such as the student's date of birth, place of birth and mother's maiden name; and other information that alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the educational agency or institution reasonably believes knows the identity of the student to whom the education record relates.

G. Public Information

Public information refers to information about a student contained in an education record which would not generally be considered harmful or an invasion of privacy if disclosed. Public information does not include mass mailing lists except for lists disclosed to university-affiliated entities. Public information may be disclosed unless the student requests that it not be released. For purposes of this policy and regulation, "public information" is intended to mean "directory information" as used in FERPA.

H. Record

A record is any information or data recorded in any medium including, but not limited to, handwriting, print, tapes, microfilm, microfiche, computer media, and any electronic storage or retrieval media.

I. Student

For purposes of Regents' Policy and University Regulation regarding education records, a student is an individual who meets the definition of student set forth in "General Provisions" for Part IX of Regents' Policy, and, in addition, for whom the university maintains an education record. The term "attendance" as used in FERPA is synonymous with the terms "enrolled in" or "registered with" as used in Regents' Policy, University Regulation, and MAU rules and procedures. Attendance includes, but is not limited to registration for a course, attendance in person, attendance by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom, and the period during which a person is working under a work-study program.

J. University Official

A university official is any individual designated by the university to perform an assigned function on behalf of the university, including a contractor, consultant, volunteer or other party to whom the university has outsourced institutional services or functions.

(06-16-09)

R09.04.030. Composition of Education Records.

Except as specified elsewhere, education records are those records directly related to a student which are maintained by the university or by a party acting for the university. Education records do not include:

- A. personal records of instructional, supervisory, and administrative personnel, as well as educational personnel ancillary to those persons, which are kept in the sole possession of the maker of the record, are used only as a personal memory aid, and are not accessible or revealed to any other individual, except to an individual who performs on a temporary basis the duties of the individual who made the record;
- B. campus police records which are created and maintained by campus police solely for law enforcement purposes;
- C. employment records, when
 1. the records relate exclusively to a student who is employed by the university in that individual's capacity as a university employee,
 2. records are made and maintained in the normal course of business, and
 3. the records are not available for use for any other purpose;

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.

- D. student records which
 1. are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his/her professional or paraprofessional capacity, or assisting in that capacity,
 2. are created, maintained, or used only in connection with the provision of treatment to the student by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his/her professional or paraprofessional capacity, or assisting in that capacity, and

3. are not disclosed to anyone other than the above individuals providing treatment, except that the records may be personally reviewed by a physician or other appropriate professional of the student's choice;

Treatment in this context does not include remedial educational activities, academic and career advising, tutoring, disability management counseling, or any activities which are part of the program of instruction offered by the university.

- E. records containing only information relating to a person after that person is no longer a student at the university and that are not directly related to the individual's attendance as a student.
- F. Grades on peer-graded papers before they are collected and recorded by a teacher.

(06-16-09)

R09.04.040. Annual Notification of Rights.

Students enrolled in or registered with the university will be annually informed of their rights under Regents' Policy and University Regulation on education records and under FERPA. Notification will be published in class schedules, student handbooks and/or academic catalogs.

The notification will include a statement that a student has a right to:

- A. inspect and review the student's education records;
- B. request the amendment of the student's education records to ensure that they are not inaccurate, misleading, or otherwise in violation of the student's privacy or other rights;
- C. consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the disclosure without consent is authorized by Regents' Policies, University Regulations, or FERPA;
- D. file with the United States Department of Education a complaint concerning alleged failures by the university to comply with the requirements of FERPA; and
- E. be informed where copies of education records policies are located, how to obtain a copy, and to whom to address questions regarding education records.

The procedures for exercising these rights are established in other sections of this regulation on education records or in MAU rules and procedures.

(02-20-98)

R09.04.050. Inspection and Review of Education Records by Students

- A. Students will be permitted to review their education records within a reasonable period of time of request, but in no case later than 45 calendar days after the request.

- B. Each chancellor will establish MAU rules and procedures consistent with FERPA, Regents' Policy, and University Regulation by which a student may inspect and review his/her records. The MAU rules and procedures will include:
1. a schedule of the fees to be charged for copies, if applicable;
 2. a list of the types and locations of education records maintained by each campus;
 3. the titles and location of the university officials responsible for each type of record; and
 4. the manner in which identification will be verified.
- C. Notwithstanding the applicable record retention period, student records will not be destroyed if there is an outstanding request to inspect and review them.
- D. In accordance with FERPA, the following education records are not subject to inspection and review by students:
1. financial records and statements of the student's parents or guardians or any information contained therein; however, information from the parent's confidential statement, or the equivalent information, may be disclosed to the student if the proper authorization has been signed by the parent(s) or guardian(s);
 2. confidential letters and statements of recommendation which are placed in the education record prior to January 1, 1975, provided that the letters and statements are used only for the purposes for which they were specifically intended;
 3. confidential letters and statements of recommendation which were placed in the education record after January 1, 1975, with regard to admission, application for employment, or the receipt of an honor, if the student has waived the right to inspect and review those recommendations and the recommendation relates to the student's admission, application for employment or job placement, or receipt of honors;
 4. records containing personally identifiable information about other students.
- E. If an education record contains information on more than one student, a student may inspect and review, or be informed of, only the specific information which pertains to that student, except for permissible disclosure of public information.
- F. A waiver under this section is valid only if the waiver is made in writing, is signed by the student, and is not required as a condition for admission to or receipt of a service or benefit from the university. Each chancellor will establish MAU rules and procedures which provide a process for a student to waive rights to access an educational record.
- G. Requests to inspect and review admissions records of individuals who have not been accepted to or who have not enrolled in and attended the university are not covered under

this policy and regulation. An applicable challenge would be treated under resolution of academic disputes.

(02-20-98)

R09.04.060. Disclosure of Personally Identifiable Information.

The University of Alaska may disclose personally identifiable information from an education record without the signed consent from the student if the disclosure meets one or more of the following conditions or other provisions of FERPA.

- A. The disclosure is made to a university official with a legitimate educational interest.
- B. The disclosure is made to officials of another educational institution 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 made to authorized representatives of the Comptroller General of the United States, Attorney General of the United States, Secretary of the Department of Education, or educational authorities in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements which relate to those programs.
- D. The disclosure is made 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. As used herein, "financial aid" means a payment of funds provided to an individual or a payment in kind of tangible or intangible property to the individual that is conditioned on the individual's attendance at the university.
- E. The disclosure is made 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 if the study is conducted in a manner that does not permit personal identification of parents or students by individuals other than representatives of the organization that have legitimate interests in the information.
- F. The disclosure is made to accrediting organizations to carry out their accrediting functions.
- G. The disclosure is made to the parents of a dependent student.
- H. The disclosure is made to a student regarding that student's record.
- I. The disclosure is made to comply with a judicial order or lawfully issued subpoena. A reasonable effort must be made to notify the student in advance of compliance unless the disclosure is in compliance with:

1. a federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed; or
2. any other subpoena issued for a law enforcement purpose and the court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in the subpoena not be disclosed; or
3. an ex parte court order obtained by the United States Attorney General concerning investigations or prosecutions as provided in federal law and regulation.

If the university initiates legal action against a student, or if a student initiates legal action against the university, the university may disclose the student's education records that are relevant to the action to the court without a court order or a subpoena.

- J. The disclosure is made in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of the student or other individual.
- K. The disclosure is designated by the MAU as public information on any student not currently enrolled unless that student, at his/her last opportunity as a student or any subsequent time, requested otherwise.
- L. The disclosure is designated by the MAU as public information and the MAU has given public notice to students at the university of:
 1. the types of personally identifiable information that the MAU has designated as public information;
 2. the student's right to refuse to let the MAU designate any or all of those types of information about that student as public information; and,
 3. the period of time within which the student has to notify the MAU in writing that he/she does not want any or all of those types of information about that student designated as public information.

An MAU may disclose public information about former students without complying with the notice and opt out conditions above. However, the MAU must continue to honor any valid request to opt out of the disclosure of public information made while a student was in attendance unless the student rescinds the opt out request.

- M. The disclosure is made to an alleged victim of any crime of violence, as that term is defined in section 16 of title 18, United States Code, regarding the results of disciplinary proceedings conducted by an MAU against the student accused of that crime with respect to that crime.
- N. The disclosure is to a parent of a student regarding the student's violation of any federal, state, or local law, or of any rule or policy of the university, governing the use or

possession of alcohol or a controlled substance if the university determines that the student has committed a disciplinary violation with respect to that use of possession and the student is under the age of 21 at the time of the disclosure to the parent.

- O. The disclosure concerns sex offenders and other individuals required to register under 42 U.S.C. 14071, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable federal guidelines.

(06-16-09)

R09.04.070. Records Regarding Requests for Access to and Disclosures of Education Records

- A. Each chancellor will establish MAU rules and procedures which provide for record keeping requirements regarding record retention periods and requests for, and disclosure of, education records.
 - 1. Records of requests, whether granted or not, will include the names and addresses of the person(s) who requested the information and their legitimate interests in the information.
 - 2. Additionally, when disclosures have been made, the records will include:
 - a. the names of additional parties to whom the receiving party may disclose the information on behalf of the MAU;
 - b. the legitimate interest these parties had in requesting or obtaining the information; and
 - c. the dates of the requests for information and the dates of the disclosure of information.
 - 3. When a disclosure has been made under the health or safety emergency exception, the records will include a statement of the articulable and significant threat to the health or safety of a student or other individuals that formed the basis for the disclosure and the names of the parties to whom the information was disclosed.
- B. Except where record keeping is not required, records regarding disclosures may be inspected by the student; the MAU official(s) and his/her assistants who are responsible for custody of the records; university officials with legitimate educational interests; or authorized federal or state officials auditing and evaluating compliance with supported educational programs or the laws associated with such programs. A record of disclosures will be maintained for as long as the education record is maintained.
- C. Record keeping of disclosures is not required for:
 - 1. disclosures to students of their own records;
 - 2. disclosures pursuant to the written consent of a student;

3. disclosures to university officials; and
4. disclosures of public information.

(06-16-09)

R09.04.080. Amending Education Records.

- A. The University of Alaska will respond to a student's request for explanation and interpretation of information contained in the student's education records. If the student believes information contained in an education record is inaccurate or misleading, or otherwise in violation of the student's right to privacy as provided in these policies, the student may request in writing that the custodian of the record amend the record to make it correct.
 1. If the request is granted, the record will be amended accordingly in a timely manner or no later than 30 days after receipt of the request.
 2. If the request is denied, the custodian will inform the student of the decision in writing and advise the student of rights to a hearing.
- B. The hearing process for amending contested education records, other than grades, is as follows.
 1. The student must submit a written request which includes:
 - a. the name, address and telephone number of the student submitting the request;
 - b. the name and title of the individual(s) who initially denied the request; and
 - c. a clear and concise description of the amendment or correction requested.
 2. The senior student services officer, or a designee who does not have a direct interest in the outcome of the hearing, will conduct a hearing.
 3. The hearing will be held within a reasonable amount of time after it has been requested, and the student will be notified of the date, time, and place at least three class days in advance of the hearing. The student will have an opportunity to present evidence relevant to the request. The student may be assisted or represented by an advisor, including legal counsel, at the student's expense.
 4. A decision will be made within a reasonable amount of time following the hearing and will be based solely on the evidence presented at the hearing.
 5. The student will receive written notice of the decision, which will include a summary of the evidence and the reasons for the decision. If the decision is to deny the request in full or in part, the notice must inform the student of the right to insert into his/her education record a statement commenting upon the

information in question and reasons for disagreeing with the decision. This statement will remain a permanent part of the record as long as the contested portion of the record remains, and will be revealed to any party to whom the record is disclosed. The student will also be notified that his or her exclusive right to challenge the university's decision is by filing a written complaint with the Family Policy Compliance Office of the United States Department of Education.

- C. Requests to amend grades, including written evaluations which are accurately recorded and which reflect institutional judgments of the quality of a student's academic performance, are reviewed not under this regulation but rather as disputes regarding academic decisions or actions.

(02-20-98)