

Standard 9 – Element 9.4-2

Evidence Submission

FERPA

Family Educational Rights and Privacy Act Policy and Procedures

The Family Educational Rights and Privacy Act (FERPA) is a federal law that affords parents the right to have access to their children’s education records, the right to seek to have the records amended, and the right to have some control over the disclosure of personally identifiable information from the education records. When a student turns 18 years old, or enters a postsecondary institution at any age, the rights under FERPA transfer from the parents to the student (“eligible student”).

DYU-COM, as a constituent of D’Youville University, adopts all policies and procedures from the parent institution to ensure compliance with all local, state, and federal laws and regulations, as well as to ensure equity across all students enrolled in the various schools/colleges of D’Youville University. FERPA training will be provided to all COM faculty and staff annually with a mandatory virtual module.

Purpose and Scope

The purpose of the law is to ensure educational records are kept private and guarantee access to these records by parents. FERPA states that educational records are private. In general, the only person who can authorize publication of educational records is the student’s parent(s) or an “eligible student” but exceptions exist when the interests at stake override the student’s right to privacy, such as a legal subpoena requiring a school to provide the documents to a judge.

Definitions

For the purposes of the policies and procedures contained within, several key terms have been explicitly defined to ensure there is a shared understanding of the language and terminology that underpins the policy’s provisions.

Directory Information – The following is considered directory information: the student's name, address, telephone listing, date and place of birth, major field of study, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Please note that students may opt-out of the disclosure of directory information. If a student chooses to opt-out of such disclosure, the University may not disclose such information, other than within classes in which the student is enrolled or where a FERPA exception applies, without the student's written consent.

School Official – A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); contractors, consultants, volunteers and other outside parties to whom the institution has outsourced institutional services or functions 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 assisting a school official in performing their tasks.

Legitimate Educational Interest – Identifying a person as a “school official” does not automatically grant them unlimited access to education records. The existence of a legitimate educational interest may need to be determined on a case-by-case basis. A school official has a legitimate educational interest if the official needs to review an education record to fulfill their professional responsibilities for the University. In general, the school official's access to an education record should be limited to the information in the record that is necessary for the official to fulfill their professional responsibilities. Further, the information must be used within the context of official agency or school business and not for purposes extraneous to the official's areas of responsibility or to the agency or school. It is important to understand several points related to the term "legitimate educational interest:"

- Curiosity is not a legitimate educational interest. Just because you have access to integrated student information systems and can view the record of any student, it does not mean that you necessarily have a legitimate educational interest in viewing one's grades, cumulative GPA or any other protected information.
- Simply the fact that you are a university employee does not constitute legitimate educational interest. Your need to know must be related to your job responsibilities in support of the university's educational mission. In other words, records should be used only in the context of official business in conjunction with the educational success of the student.
- Your legitimate educational interest is limited. While you may have a need to access education records for students in your school or department, you do not necessarily have a similar need to view records of students outside your university. In other words, access to information does not authorize unrestricted use.
- The information is to be used consistently with the purposes for which the data are maintained.

Policy Procedures

D'Youville University students or parents, as provided by statute, may review any official records, files and data directly related to themselves that are on file with the registrar's office or in the career services center. A student or parent, may also request in writing a review of information that may be inaccurate and/or misleading. In this case, the review will be conducted by an appropriate D'Youville administrative officer who does not have a direct interest in the outcome. The files available include identifying data, academic work completed, grades, family background information, references, ratings and/or observations. References, ratings and/or observations completed before Jan. 1, 1975 or that are older than seven years are not available to students.

Requests to see the materials should be made in writing to the registrar or the director of the career services center, respectively. The records, files and/or data will be made available no later than 45 days from the time the written request is received. Student records, files, and data will be made available to other individuals or agencies outside of the university only after the student concerned has authorized the release of the information. However, the following are exceptions:

- Authorized officials (e.g., officials of other schools in which the student seeks to enroll);
- Accrediting organizations;
- In the case of an emergency, if the knowledge of such information is necessary to protect the health and safety of the student or other persons.

Directory Information may be released by D'Youville University without the consent of the student unless the student has specifically requested in writing that their consent must be obtained beforehand. Directory information will not be made available to the party requesting it unless the appropriate administrative officer of D'Youville University has considered and approved the request.

Students Under 18 Years of Age

According to FERPA, information contained in the educational records of students who are 18 years of age or enrolled in post-secondary institutions may be sent to the parents without the written consent of the student only if the student is a financial dependent of the parents. (The term dependent is defined in section 152 of the Internal Revenue Code as an individual [son, daughter, stepson or stepdaughter of a taxpayer] who receives over half of their support from the taxpayer during the given calendar year.)

Education Records

Education records are all records that contain personally identifiable information directly related to a student and that are maintained by D'Youville University. Education records may be recorded and stored in any way, including paper records, electronic records, handwriting, print, computer media, video or audio tape, film, microfilm, microfiche, and digital images.

Education records do not include the following:

- **Personal knowledge and personal observations.**
- **Sole possession records** – records kept in the sole possession of the maker, which are used only as a personal memory aid, and are not shared with or accessible by any other person.
- **Law enforcement records** – records created and maintained by D'Youville University's campus security department for law enforcement purposes.
- **Employment records** – records pertaining only to a student's employment with D'Youville University relating only to the individual's capacity as an employee.
- **Alumni records** – records created or received after a student is no longer in attendance at the University and unrelated to the student's attendance as a student.
- **Peer grades** – grades on peer-graded papers and assessments before they are collected and recorded by a teacher.
- **Treatment records** – records maintained by medical professionals and shared with other medical professionals for purposes of providing medical treatment to the student.

Student Consent

Education records may not be released without prior written consent from the student to which they pertain. Such written consent must be dated and signed by the student, and must specify the records to be released, the reasons for which they may be released, and to whom the records may be released.

Consent to disclose student records is not required under the following circumstances:

- Where the disclosure is of directory information, as that term is defined above.
- Where the disclosure is made to the parents of dependent students. Prior to making such a disclosure, however, you must confirm with the Registrar's office that the student is in fact a dependent.
- Where the disclosure is to school officials with legitimate educational interests, as those terms are defined below.
- Where the disclosure is to appropriate parties in a health or safety emergency. Appropriate parties may include: law enforcement officials, public health and safety officials, medical professional and personnel, or parents.
- Where the disclosure is to officials of another school in which the student seeks or intends to enroll or is enrolled.
- Where the disclosure is in connection with financial aid for which the student has applied, received or is receiving.
- Where the disclosure is made to accrediting organizations.
- Where the disclosure is made to officials conducting studies for or on behalf of the University.
- Where the disclosure is to authorized government representatives responsible for supervising the University's State-supported education programs.
- Where the disclosure is made to comply with a judicial order or lawfully issued subpoena.
- Where the disclosure is made to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regarding the results of a disciplinary proceeding concerning such offense.
- Where the disclosure is made to the public, regarding the results of a disciplinary proceeding, if the school determines the student is an alleged perpetrator of a crime of violence or non-forcible sex offense, and the student has committed a violation of the school's rules or policies.
- Where the disclosure is made to parents of a student regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21.

If you disclose personally identifiable information from a student's education records pursuant to one of the above FERPA exceptions, you normally must first inform the recipient of the information that it cannot re-disclose the information without the student's consent, and that it may only use the information for the purpose for which the disclosure was made.

You must also maintain a written record of each request for access to, and each release of personally identifiable information from a student's education record, which includes that name of the requester and recipient of the information, the legitimate interests they had in the information, and, in the case of a "health or safety emergency," a description of the perceived threat. A written record does not need to be maintained for disclosures made pursuant to the following FERPA exceptions:

- Disclosures to school officials with legitimate educational interests.
- Disclosures made with the student's written consent.
- Disclosures of directory information, so long as the student has not opted-out.
- Disclosures in connection with a grand jury or other law enforcement subpoena.
- Right to Inspect and Review.

FERPA gives D'Youville students the right to inspect and review their own education records. Should you receive a student request for access to their education records, such access must be provided within 45 days of the request. You must also provide a timely response to any reasonable requests for explanations and/or interpretations of the records requested. You do not have to provide students with copies of requested education records, unless providing copies is necessary so as not to effectively prevent the student from inspecting and reviewing the record.

A student may also request, in writing, the amendment of information in the student's education records that may be inaccurate, misleading or otherwise in violation of FERPA. The review of the record will be conducted by an appropriate D'Youville University administrative officer who does not have a direct interest in the outcome. If the university decides not to amend the record as requested, it will notify the student, in writing, of its decision. The student is entitled to challenge the decision not to amend an education record through the University's formal grievance procedure.

Letters of Recommendation

Writing a letter of recommendation may require express, written permission from the student to allow you: (1) to access the student's education records, and (2) to disclose information from the student's education records to a third party.

Letters of recommendation containing student personally identifiable information and when maintained by the University are education records subject to FERPA's review and inspection requirements. Students are entitled to review recommendation letters pertaining to them, unless they have waived the right to such review, in writing.

Disposing of FERPA Protected Information

There is no requirement under FERPA that the University maintain education records. However, when disposing of confidential education records (such as tests, papers, class rosters, transcripts, grade reports), please be sure to shred them or place them in a receptacle intended for the collection of material to be disposed of in a secure manner.

Responsible Unit: Registrar
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