FERPA for Administrators and Staff

The Basics
The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, requires institutions receiving federal monies to protect the privacy of students’ educational records. This law affords students four basic rights: The right to receive annual notifications; the right to review their records, the right to request amendments be made to their records, and the right to limit information disclosure from those records. All employees are required to comply with FERPA. An Institution’s failure to comply with FERPA may result in the Department of Education’s withdrawal of federal funds.

As an employee of AUM, you need to know the difference between “Directory Information” and “Non-Directory Information” otherwise known as “Personally Identifiable Information”

DIRECTORY INFORMATION: Those data items that are generally not considered harmful or an invasion of privacy if publically available. These items may be disclosed, unless the student has placed a “block” on Directory Information release. If blocked, the word, “Confidential” will appear by the student’s name in Webster or in the left hand corner of every page of the student’s BANNER record. At AUM directory information is:

- Student’s Name (Including Preferred Name)
- Address (Local and Permanent)
- Telephone Listing
- Email Address
- Photograph, video or other electronic images
- Date of birth
- Major(s)/Degree Program(s)
- Dates of Attendance
- Class/Level
- Enrollment status (e.g. undergraduate or graduate, full-time or part-time)
- Participation in officially recognized activities and sports
- Weight and height of members of athletic teams
- Degree(s) conferred, Honors & Awards (Including Dean’s List)
- Most recent educational agency or institution attended

EDUCATION RECORDS: Include any record maintained by the institution (not just the Registrar) that contains information that is personally identifiable to a student (in whatever format or medium). These items cannot be disclosed to a third party, including parents, without the student’s written consent. “Personally Identifiable Information” or “Educational Records” may be released only to the student and then only with the proper identification. To disclose to a third party, including parents, requires the student’s written consent. Any educational identifying data that is not Directory Information falls within this category.

EDUCATION RECORDS
Including but not limited to:

- Class schedule
- Grades/GPA and academic standing
- Test scores
- Academic transcripts
- Disciplinary records
- Student financial records
- Employment records of student workers

Other Personally Identifiable Records
Including but not limited to:

- Social Security Number
- Gender/race/ethnicity
- Residence status
- Country of citizenship
- Religious preference

Under what circumstances can employees share non-directory information in educational records without the student’s written consent? An employee may disclose records without consent if certain requirements are met, but it is not required to do so. Some examples of the exceptions to the release requirement are:

- To “University officials” with a “legitimate educational interest”. These can be employees (including student employees) and legal agents who require access to educational records in order to perform their official, educationally-related duties.
- Disclosure to organizations conducting studies to improve instruction, or to accrediting organizations
- Disclosure to parents of dependent students (IRS definition), if a copy of the most recent tax return has been filed in the Registrar’s Office
- To comply with a judicial order or lawfully issued subpoena
- Disclosure for a health/safety emergency (must document what the emergency was and to whom the information was released).

Without one of these FERPA exceptions, the student’s written and signed consent must be on file to release personally identifiable records. When in doubt, contact the Registrar’s Office for clarification.

What should the student’s written consent include?

- Record(s) to be released; Purpose of the disclosure; Party/parties to whom disclosure can be made; Signature of the student and date signed; Duration of the release
What about parent requests for student educational records?
FERPA rights transfer to the student at age 18 or once she or he attends a post-secondary institution (such as AUM) regardless of age. Parents or legal guardians may obtain their student’s education records only if: a) they can establish that the student is a financial dependent on their most recent tax return; or b) by obtaining the student’s written consent. However, the Registrar’s Office will require that the parent(s) or legal guardian provide a copy of the filed tax return or have the student’s written consent on file before the requested information can be released.

Records access by University personnel
As University personnel, you may be granted access to a student’s education records if you can establish “legitimate educational interest” (otherwise known as “need to know”) for the request, meaning that you need the information to perform your professional duties. It is important to understand several points related to “legitimate educational interest”:

- Curiosity is not a legitimate educational Interest. Merely because you have access to BANNER and are able to view the records of your neighbor’s daughter, does not mean that you have a “legitimate educational Interest” in viewing her grades or GPA.
- The fact that you are a University employee does not constitute legitimate educational interest in and of itself. Your “need to know” must be related to your job responsibilities in support of the University’s educational mission 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, you do not necessarily have a similar need to view records of students outside your school. In other words, access to information does not authorize unrestricted use.

Are all student records considered education records?
No. Following is a list of informational items that are not considered educational records and therefore are not subject to a student’s written consent for review:

- Law-enforcement records; certain medical treatment records; alumni records
- Employment records for AUM faculty and staff. However, employment records of students who are employed as a result of their status as students (e.g., work-study, student workers, and graduate assistants) are considered education records.
- “sole-possession” documents, typically memory joggers—not grade or GPA related—created and maintained by you, and not shared with even one other person. As long as they remain private they are not subject to FERPA. Once shared, they become part of the student’s education record.

What about talking with a student about his or her education records?
Before you discuss non-directory information with a student you must make a “reasonable” effort to confirm the student’s identity. In person, require that the student present photo-identification. By phone, require the student to correctly provide at least three pieces of identifying information (e.g., address, major, classes currently enrolled, student number). Regarding email, the Department of Education’s Family Policy Compliance Office (which interprets FERPA) advises caution when using personal identifying information (e.g., Social Security Number) or specific education records. That office contends that despite the issuance of a secured student email account, institutions cannot be absolutely certain that the student is the receiving party.

Is the University required to release a student’s directory information?
No. The only required disclosure of education records is to the student. All other disclosures, including those with student written consent, are at the discretion of the institution.

Quick Tips for Administrators and Staff

- When in doubt, contact the Registrar at 244-3125 for assistance, or refer to the AUM’s FERPA website.
- Request information from a student’s educational record only when you have a legitimate educational need to know and the appropriate authority to do so.
- Only keep those individual student records necessary for the fulfillment of your working or advising responsibilities.
- Keep any personal records (“sole possession”) relating to individual students separate from their educational records. Private notes, as long as they are not shared with even one person, are not considered part of the student’s educational record.
- Do not share student educational information, including grades, GPAs, with other staff or faculty members unless their official employment responsibilities require them to have that information to perform their duties.
- Do not share student educational information with parents, or others outside AUM, without written permission by the student. Check with the Registrar’s Office to determine if the student has provided written consent for release under those circumstances.
- Insure privacy when asking for student information, including their AUM student ID. When on the telephone, be aware that the student may not be in a private environment.
- Do not make value judgments or use inappropriate “demeaning” language in any comments or notes that are entered into BANNER or stored in shared student files, since these comments and notes are considered part of the education record and are subject to the student’s right to review.
- Always use blind copies when emailing groups of students. Never include grades or other educational information that is specific to one student, in a group email.
- Do not request information from the educational record custodian (Registrar or department personnel) without a legitimate educational need to know and the appropriate authority to do so.
- Do not share, by phone or correspondence, information from student educational records, including grades or grade point averages, with parents or others outside AUM, including letters of recommendation, without written consent from the student.