

POLICY CONCEPT FORM

Name and UO Title/Affiliation:	Julia Pomerenk, University Registrar
Policy Title/# (if applicable):	Student Records Policy
Submitted on Behalf Of:	VPSL, Registrar, HR, and OGC
Responsible Executive Officer:	Registrar's Office

SELECT ONE: New Policy Revision Repeal

HAS THE OFFICE OF GENERAL COUNSEL REVIEWED THIS CONCEPT: Yes No

If yes, which attorney(s): Jeslyn Everitt, Jessie Schuh

GENERAL SUBJECT MATTER

Include the policy name and number of any existing policies associated with this concept.

<https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-student-records/student-records>
(updated)

<https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-student-records/student-records-0>
0 (can be repealed, as consolidated in above)

STATEMENT OF NEED

What does this concept accomplish and why is it necessary?

In order to comply with state law (ORS 243.804), we must provide certain information including names, address, worksite, job title, and salary of student employees to the UO Student Workers union (UOSW). However, we are precluded from doing so under the Family Educational Rights and Privacy Act (FERPA), because a student's employment status is part of their educational record, unless the student consents. In order to comply with state PECBA requirements and federal FERPA requirements, the university passed an emergency update to the student records policy to define the required information as "directory," which would allow it to be shared. Directory is defined in FERPA (34 CFR 99.3) as follows:

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. (a) Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended. (b) Directory information does not include a student's— (1) Social security number; or (2) Student identification (ID) number, except as provided in paragraph (c) of this definition.

This policy concept form recommends that the temporary rule be adopted as a permanent rule. This would allow the university to comply with state law by providing necessary unit level information to the UOSW bargaining unit. In addition, this complies with federal law (FERPA) because the information being defined as “directory” is the type of information permitted by the FERPA regulations and are not harmful or an invasion of privacy if disclosed. In addition, additional protections exist including (a) the student employee information will be shared only with the union and (b) students receive annual notice of what information is considered directory and have the right to opt out of it being directory. Finally, this is similar to how we treat graduate employees where we provide the GTFF union with contact information pursuant to the definition of directory in this policy.

We also used this opportunity to update the policy to be consistent with the style guide, to include emeriti faculty in the definition of school official, to include UOPD as the university’s law enforcement, and to consolidate this policy with the other student records policy at <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-student-records/student-records-0> for simplicity and ease of reference.

AFFECTED PARTIES

Who is impacted by this change, and how?

Student employees, as their contact information can be disclosed to UOSW.

Emeriti faculty and courtesy appointments, who will be brought into the definition of school official.

CONSULTED STAKEHOLDERS

Julia Pomerenk, University Registrar

Kris Winter, Interim Vice President for the Division of Student Life

Marcus Langford, Dean of Students

Jason Wade, Chief of Police

Mark Schmelz, Chief Human Resources Officer

Chris Meade, Director of Employee Labor Relations

Andre Le Duc, Chief Resilience Officer

Student Records

Policy Number:

III.05.03

Reason for Policy:

This policy outlines matters relating to student records.

Entities Affected by this Policy:

All students and employees of the UO

Responsible Office:

For questions about this policy, please contact Student Life at 541-346-3216 or the University Registrar at 541-346-2935.

Website Address for this Policy:

<https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-s...>

Enactment & Revision History:

02 January 2024 – Temporary Emergency Policy Revisions enacted by the university President. This revision will remain in place until September 30, 2024, or until the definition of directory has been permanently updated and noticed, whichever occurs sooner.¹

02 November 2016 - Policy number changed from 571.020 (former OAR) to UO Policy III.05.03.

03 September 2015 - Technical revisions enacted by the university secretary.

01 July 2014 - Became a University of Oregon Policy by operation of law.

Former Oregon Administrative Rule Chapter 571 Division 20.

Policy:

~~1 The University hereby issues the following temporary emergency policy under Policy I.03.01, section 9, in order to comply with ORS 243.804(4)(a) in providing student employee contact information to the UO Student Workers Union.~~

The Student Records Policy (Policy No. III.05.03), available at <https://policies.uoregon.edu/student-records-1> shall be modified as follows in **bold/underlined font**:

A. Introduction

The University of Oregon is required to comply with the federal Family Educational Rights and Privacy Act of 1974, as amended, and other federal and state laws governing access to and confidentiality of records and information pertaining to students. This policy is intended to inform students and others generally of their rights and guide the university in its management of student records and information. University employees should be mindful that only personal records demonstrably and substantially relevant to the educational and related purposes of the university, division or department should be generated or maintained.

B. Definitions

(1) "Act" means the Family Educational Rights and Privacy Act of 1974, as amended, its implementing regulations, and any official guidance issued by the U.S. Department of Education.

(2) "Directory information" means the student's name; mailing and permanent address(es); telephone number(s); electronic mail address(es); whether the student is or has been enrolled; enrollment status (e.g., full-time or part-time); dates of attendance; class level; cumulative credit hours; major and minor fields of study; participation in officially recognized activities and sports; and degrees, certificates, honors and awards received. For graduate teaching fellows, "directory information" also means status as a graduate teaching fellow and teaching assignment. **For student employees, for the sole purpose of providing the information on to the UO Student Workers union pursuant to ORS 243.804(4)(a), "directory information" also means status as a student employee including job title, salary, work site location, and date of hire and separation.**

Commented [JE1]: Required by PECBA/student employee bargaining.

(3)

(a) "Education records" means those records that are:

(A) Directly related to a student; and

(B) Maintained by the university or by a party acting for the university.

(b) To the extent set forth in the Act, "education records" does not include the following:

- (A) Sole possession records;
- (B) Records of the ~~UO Police Department~~ Department of Public Safety;
- (C) Records relating to an individual who is employed by the university, unless the individual is in attendance at the university and is employed as a result of ~~their his or her~~ status as a student;
- (D) Treatment records concerning a student that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in ~~their his or her~~ professional capacity; and
- (E) Records that only contain information about an individual after he or she is no longer a student at the university.

(4) "Legitimate Educational Interests" means a reasonable need to know information in the course of carrying out one's duties.

(5) "Personally identifiable information" includes, but is not limited to:

- (a) The student's name;
- (b) The name of the student's parent or other family member;
- (c) The address of the student or student's family;
- (d) A personal identifier, such as the student's social security number or student number;
- (e) A list of personal characteristics that would make the student's identity easily traceable; or
- (f) Other information that would make the student's identity easily traceable.

(6) "School Official" means a person employed by the university, ~~as well as emeriti faculty and courtesy appointments~~; a person or entity, including a governmental entity, with whom the university has contracted; a person serving on the university's governing board; or a student serving on an official committee or assisting another school official in performing ~~their his or her~~ duties.

Commented [JE2]: Technical revision to bring emerit and courtesy appointments, who serve as instructors, into the definition of school officials. See <https://provost.uoregon.edu/courtesy-and-emerit-appointments>. OtP/PCS please also review.

(7) "Student" means any individual who is or has been in attendance at the university and regarding whom the university maintains education records. An individual who is or has been a student at the university and who applies for admission at another component of the university does not have rights with respect to records maintained by that other component, including records maintained in connection with the student's application for admission, unless the student is accepted and attends that other component of the university.

(8) The following terms shall have the definitions contained in the Act: Attendance; Dates of Attendance; Disciplinary Action or Proceeding; Disclosure; Parent; and Record.

(9) The definitions contained in this section shall be deemed amended if and to the extent that the Act is amended.

C. Location and Custody of Student Records

Education records and official personal records shall be kept in locations central to the university or the division or department that maintains them. The control of such records should be assigned to designated personnel responsible for preserving the confidentiality of records. Education records may also be maintained by individual employees and others acting on behalf of the university. The Vice President for Student Affairs or ~~their his or her~~ designee(s) is the custodian of all education records maintained by the university or on its behalf and shall have ultimate control of all education records. The Office of the Registrar is the initial point of contact for questions related to this policy. Subpoenas seeking education records are typically served on the University Registrar, and the Office of the Registrar should be informed whenever the university or a university employee is served with a subpoena seeking education records. If the university or a university employee is served with a law enforcement subpoena ordering that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed to the student, a copy shall be sent immediately to the Office of the General Counsel. No documents shall be released or information disclosed until university legal counsel determines that the subpoena is valid.

D. Access to Education Records by a Student

(1) Except as limited in Section F, a student must be given the opportunity to inspect and review the student's education records within a reasonable period of time but not more than 45 days from receipt of the request. The university will respond to reasonable requests for explanations and interpretations of the records. This policy does not require the university to provide a student or anyone else with an official transcript.

(2) The university shall not destroy any education records if there is an outstanding request to inspect and review them.

(3) Although the university is not required to give a student access to treatment records under Section B(3)(b), the student may have those records reviewed by a physician or other appropriate professional of the student's choice.

E. Fees for Copies of Education Records

Unless the imposition of a fee effectively prevents a student from inspecting and reviewing the student's education records, the university may charge a fee for a copy of a record that is made for the student. Unless set forth elsewhere in university rules or policies, the fee may not exceed twenty-five cents per page. The university will not assess a student a fee to search for or to retrieve the education records of that student.

F. Limitations on Access to Education Records

(1) 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 about that student.

(2) The university does not have to permit a student to inspect and review the following education records: financial records of the student's parents; and, under the circumstances described in the Act, confidential letters and statements of recommendation.

G. Disclosure of Directory Information

(1) The university may disclose directory information in compliance with the Act.

(2) Students may restrict the disclosure of all directory information by filing a completed *Restriction of Directory Information* form with the Office of the Registrar at any time during regular business hours. The restriction becomes effective as soon as is reasonably practicable and remains in effect until revoked in writing.

H. When Prior Consent Is Required for the Disclosure of Personally Identifiable Information from Education Records

Except as provided in the Act or other applicable law, the university will not disclose personally identifiable information from a student's education records unless the student provides a signed and dated written consent which specifies the records that may be disclosed; states the purpose of the disclosure; and identifies the party or class of parties to whom the disclosure may be made. The university will provide the student, upon request, with a copy of the records disclosed.

I. When Prior Consent Is Not Required for the Disclosure of Personally Identifiable Information from Education Records

The university may disclose personally identifiable information from an education record without the student's consent if one of the following conditions is met:

- (1) The disclosure is to a school official who has a legitimate educational interest.
- (2) The disclosure is to officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.
- (3) The disclosure is to comply with a judicial order or lawfully issued subpoena and the university makes a reasonable effort to notify the student of the order or subpoena in advance of compliance so that the student may seek protective action. If the disclosure is to comply with a federal grand jury subpoena or 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 response to the subpoena not be disclosed and university legal counsel has determined that the subpoena is valid, then the university shall not notify the student.
- (4) The disclosure is 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 individuals. This shall be strictly construed. The factors to be taken into account in determining whether this exception applies shall include the following:
 - (a) The seriousness of the threat to the health or safety of the student or other individual;
 - (b) The need for the information to meet the emergency;
 - (c) Whether the individuals to whom the information is disclosed are in a position to deal with the emergency;
 - (d) The extent to which time is of the essence in dealing with the emergency.
- (5) The disclosure is information the university has designated as directory information.
- (6) The disclosure is to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense. The disclosure may only include the final results of the disciplinary proceeding conducted by the university with respect to that alleged crime or offense.
- (7) The disclosure is in connection with a disciplinary proceeding at the university and the university determines that 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 university's rules or policies with respect to the allegation made against ~~them~~ ~~him or her~~. The university may not disclose the name of any other student, including a victim or witness,

without the prior written consent of the other student. This subsection applies only to disciplinary proceedings in which the final results were reached on or after October 7, 1998.

(8) The disclosure is otherwise in compliance with the Act or other applicable law.

J. Procedures for Seeking Amendment of Education Records

(1) Requesting Amendment of Education Records. If a student believes the education records relating to the student contain information that is inaccurate, misleading, or in violation of the student's rights of privacy, ~~they he or she~~ may ask the university to amend the record. Such a request shall be submitted to the University Registrar in writing and shall include at a minimum the following:

- (a) If available, a copy of the record the student is seeking to amend;
- (b) The specific amendment sought;
- (c) The reasons why the student is seeking the amendment; and
- (d) All evidence the student wishes the university to consider. The university shall decide whether to amend the record within a reasonable time after it receives the request. If the university decides not to amend the record as requested, it will inform the student of its decision and of ~~their his or her~~ right to a hearing. The hearing will be informal but must meet the requirements of the Act.

(2) Results of the Hearing. If, as a result of the hearing, the university decides that the information is inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall amend the record accordingly and inform the eligible student of the amendment in writing. If the university decides that the information is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it shall inform the student of the right to place a statement in the record commenting on the contested information or stating why he or she disagrees with the university's decision, or both. Any such statement will be maintained with the contested part of the record for as long as the record is maintained and disclosed whenever the relevant portion of the record is disclosed.

K. Certain Information Not Required To Be Provided By Students

No student shall be required to provide, except voluntarily, information as to race, religion, political affiliation or preferences, or personal values, except as required by state statute, federal law or valid federal rules, regulations or orders.

Commented [JE3]: Edits to consolidate with <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-student-records/student-records-0?> This section seems to cover part B of that other policy, and we can fold part A in below.

Commented [JE4]: From <https://policies.uoregon.edu/vol-3-administration-student-affairs/ch-5-student-records/student-records-0>

L. Availability of Education Records for Research Purposes

Education records and information contained in education records may be disclosed to organizations conducting legitimate educational research, testing, accreditation, granting financial aid, or improving instruction if the records or information do not permit identification of students or parents and if the information is destroyed when no longer needed to carry out its specified purposes.

M. Law Enforcement Records of the Department of Public Safety

Commented [JE5]: Edited to reflect that UOPD now serves as our law enforcement unit.

(1) For purposes of this policy, "law enforcement unit" means the University of Oregon Police Department (UOPD) and "UOPD records" Department of Public Safety (DPS) and "DPS records" means those records, files, documents, and other materials that are: created by UOPD DPS; created for a law enforcement purpose; and maintained by UOPD DPS. "UOPD DPS records" does not mean: records created by UOPD DPS for a law enforcement purpose that are maintained by a component of the university other than UOPD DPS or records created and maintained by UOPD DPS exclusively for a non-law enforcement purpose.

(2) Nothing in the Act or this policy prohibits the university from contacting UOPD DPS, orally or in writing, for the purpose of asking that it investigate a possible violation of, or to enforce, any local, state, or federal law.

(3) Education records, and personally identifiable information contained in education records, do not lose their status as education records and remain subject to the Act and this Policy while in possession of UOPD DPS.

(4) The Act and this policy do not require nor do they prohibit the disclosure by the university of UOPD DPS records.

N. Limitations on the Re-disclosure of Information

(1) Except as permitted in the Act, the university may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior consent of the student.

(2) Except where exempt under the Act, the university shall inform a party to whom disclosure is made of the Act's nondisclosure requirements.

O. Recordkeeping Requirements

(1) Except as provided in paragraph (3), the university shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. The record shall be maintained with the education records of the student as long as the records are maintained. For each request or disclosure the record must include: the parties who have requested or received personally identifiable information from the education records; and the legitimate interests the parties had in requesting or obtaining the information.

(2) Disclosure of personally identifiable information from an education record with the understanding that re-disclosure may occur requires the following record of the disclosure: the names of the additional parties to which the receiving party may disclose the information on behalf of the university; and the legitimate interests which each of the additional parties has in requesting or obtaining the information.

(3) Paragraph (1) of this section does not apply if the request was from, or the disclosure was to: the student; a school official within the university with a legitimate educational interest; a party with written consent from the student; a party seeking directory information; or a party seeking or receiving the records as directed by a federal grand jury or other law enforcement subpoena and the issuing court or other issuing agency has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed.

P. Permanence, Duplication, and Disposal of Student Records

~~(1) Individual education records should be maintained for the period of time specified by the university's retention schedule. Individual education records shall be maintained only for the minimum period of time required to serve the official functions of the office generating and maintaining them. The records shall then be disposed of in a manner designed to assure confidentiality.~~

~~(2) The permanent retention of education records shall be limited to records that the President or the State Archivist determine to be of long range value to the student or the University.~~

(2) Duplication of permanent education records shall be minimized. Duplicate permanent records shall be destroyed in accordance with this Policy.

Commented [JE6]: Updated now that we have a university retention schedule determined by the Records Manager, and not the state archivist.

Q. Annual Notice

The university shall publish and distribute on an annual basis to students notice of their rights under the Act. Such notice shall comply with the applicable provisions of the Act.

Chapter/Volume:

- Volume III: Administration of Student Affairs
- Chapter 5: Student Records

Original Source:
Oregon Administrative Rule

Related Policies

Confidentiality of Client/Patient Health Care and Survivors' Services Information,
<https://policies.uoregon.edu/III.05.02>

POLICY CONCEPT FORM

Name and UO Title/Affiliation:	Julia Pomerenk, University Registrar
Policy Title/# (if applicable):	Student Records Policy
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Responsible Executive Officer:	Registrar's Office

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HAS THE OFFICE OF GENERAL COUNSEL REVIEWED THIS CONCEPT: Yes No

If yes, which attorney(s): Jeslyn Everitt, Jessie Schuh

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