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SOUTHWEST MINNESOTA STATE UNIVERSITY

POLICY

STUDENT RECORDS

Privacy of Student Records under the Federal Family Educational Rights and Privacy Act and Minnesota Government Data Practices Act

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the Minnesota Government Data Practices Act, (MGDPA) Minn. Stat. Ch 13, are federal and state laws that provide for the review and disclosure of student educational records.

Definitions: For the purposes of this policy, Southwest Minnesota State University has used the following definitions and terms:

Student: An individual currently or formerly enrolled or registered and/or applicants for enrollment or registration, or individuals who received shared time educational services from SMSU.

Educational Data or Educational Records: Data in any form (print, handwritten, film, electronic, etc) directly relating to an individual student maintained by the University or by a person acting for the University.

Educational records do not include:

1. Financial records of the student's parents or guardian;
2. confidential letters or statements of recommendation placed in education records before January 1, 1975 or after January 1, 1975, if the student waived right of access;
3. records of instructional, administrative, and educational personnel which are kept in the sole possession of the maker and are not accessible or revealed to any other individual except a temporary substitute for the maker and are destroyed at the end of the school year;
4. records of law enforcement units (if law enforcement unit is a separate entity and the records are maintained exclusively by and for law enforcement purposes);
5. employment records related exclusively to a student's employment capacity (not employment related to status as a student, such as work study) and not available for use for any other purpose;
6. medical and psychological treatment records, which are maintained solely by the treating professional for treatment purposes;
7. records that only contain information about a student after that individual is no longer a student at the institution (i.e., alumni data).

Notice of Policy

Students are informed of their rights under federal and state privacy laws through this policy which is included in the SMSU Student Handbook and on the SMSU Web Page. Additionally, the SMSU Student Handbook will be available for inspection through the Dean of Students Office, Library and most administrative offices.

Access to Student Records

Consent for Release Generally Required

SMSU will not permit access to or the release of personally identifiable information contained in student educational records without the written consent of the student to any third party, except as authorized by the MGDPA and FERPA or other applicable law. A copy of an informed consent release form is available from the Registration and Records Office. A written consent generally must: 1) specify the records that may be disclosed; 2) state the purpose of the disclosure; 3) identify the party or class of parties to whom the disclosure may be made; and 4) be signed and dated by the student. If the release is for disclosure to an insurer or its representative, the release must also include an expiration date no later than one year from the original authorization, or two years for a life insurance application. If the student requests, the school shall provide him or her with a copy of the records released pursuant to the informed consent.

Release without Consent

As allowed by the MGDPA and FERPA, SMSU will release student records without consent as follows:

1. To appropriate school officials who require access to educational records in order to perform their legitimate educational duties (see explanation below);
2. to officials of other schools in which the student seeks or intends to enroll, upon request of these officials, and upon the condition that the student be notified and receive a copy of the record if desired;
3. to federal, state, or local officials or agencies authorized by law;
4. in connection with a student's application for, or receipt of, financial aid;
5. to accrediting organizations or organizations conducting educational studies, provided that these organizations do not release personally identifiable data and destroy such data when it is no longer needed for the purpose it was obtained;
6. upon adequate proof, to the parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954;
7. in compliance with a judicial order or subpoena, provided a reasonable effort is made to notify the student in advance unless such subpoena specifically directs the institution not to disclose the existence of a subpoena;
8. to appropriate persons in an emergency situation if the information is necessary to protect the health or safety of the students or other persons; or
9. to an alleged victim of a crime of violence (as defined in 18 U.S.C. Sect 16) or non-forcible sex offense, the final results of the alleged student perpetrator's disciplinary proceeding may be released;
10. to another educational agency or institution, if requested by the agency or institution, where a student is enrolled or receives services while the student is also in attendance at the college or university, provided that the student be notified and receive a copy of the record, if desired.

“School Officials” with a “legitimate educational interest”

SMSU will release information in student education records to appropriate school officials as indicated in (1) above when there is a legitimate educational interest.

A school official is a person employed by the SMSU in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the University has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

Record of Requests for Disclosure

Where required by law, a record of requests for disclosure and such disclosure of personally identifiable information from student education records shall be maintained by the Registration and Records Office for each student and will also be made available for inspection pursuant to this policy. If the institution discovers that a third party who has received student records from the institution has released or failed to destroy such records in violation of this policy, it will prohibit access to educational records for five (5) years. Records of request for disclosure that are not subject to audit, nor presently under request for access, will be maintained according to the school’s applicable records retention policy.

Directory Information

The following information on students at SMSU is designated as public Directory Information:

- (1) student’s name, address, telephone number
- (2) place of birth
- (3) major field of study
- (4) participation in officially recognized activities and sports
- (5) dates of attendance
- (6) most recent previous educational institution attended
- (7) classification
- (8) degrees, honors, and awards received
- (9) date of graduation
- (10) physical factors of athletes (excluding injuries and other health related issues)
- (11) photographs
- (12) e-mail address
- (13) enrollment status (e.g., undergraduate, graduate, full-time, or part-time)

Notice to students about Directory Information:

Students may direct that any or all of the above-listed Directory Information be withheld from public disclosure by notifying the Office of the Registrar in writing each academic year. The student has until the 10th class day of the Semester in which to make the request. The university will honor the request only during the academic year in which the request was made. The student must make the request each academic year they wish the information to be withheld.

Access to Educational Records by Student

Upon written request, the University shall provide a student with access to his or her educational records. There is no charge for viewing the records even if the college or university is required to make a copy of the data in order to provide access. Responses to requests by students to review their educational records shall be within ten business days.

Upon request, the meaning of educational data shall be explained to the student by SMSU personnel assigned to, and designated by, the appropriate office.

Students have the right to review only their own records. When a record contains private information about other student(s), disclosure cannot include information regarding the other student(s).

Requests for educational records should be made to the following offices. If a student is not clear as to which office to make the request, he or she should contact the SMSU Dean of Students Office.

A. Academic Records

Registrar's Office: Registrar

B. Student Services Records

Counseling Office: Director of Counseling

Student Activities Office: Director of Student Activities

Student Services: Dean of Students

C. Financial Records

Business Office: Vice President of Finance

Financial Aid Office: Director of Financial Aid

Challenge to Record

Students may challenge the accuracy or completeness of their educational records. Note: the right to challenge a grade does not apply under this policy unless the grade assigned was allegedly inaccurately recorded. Other challenges to grades would be made in accordance with SMSU Policy G-005.2.

Students who believe that their educational records contain information that is inaccurate, misleading, incomplete, or is otherwise in violation of their privacy rights may challenge the record through a written appeal to the SMSU Dean of Students Office.

It is recommended that a student discuss his or her situation informally with SMSU office or offices that they believe provided the inaccurate information. If agreement is reached with respect to the student's request, the appropriate record(s) will be amended, and a reasonable attempt will be made to notify past recipients of inaccurate or incomplete data, including recipients named by the student. If not, the student will be notified within a reasonable period of time that the records will not be amended, and they will be informed by the Dean of Students Office of their right to a formal appeal. Student requests for an appeal must be made within 10 class days of notification. The request must be in writing, and must be directed to the SMSU Dean of Students Office.

If after an SMSU Formal Appeal is completed and the student is still not satisfied with the outcome, the student may request a formal hearing with the Minnesota Commissioner of Administration. Student requests for a formal hearing must be made in writing to the Minnesota Commissioner of Administration within 60 days of receiving the final SMSU decision. The request must be directed to: Commissioner of Administration, State of Minnesota, 50 Sherburne Avenue, St. Paul, MN 55155, who, within a reasonable period of time after receiving the request, will inform the student of the date, place, and the time of the hearing. The hearing will be conducted by the Office of Administrative Hearings (OAH) and according to the procedures set forth in Minn. Stat. Ch. 14. Students may present evidence relevant to the issues raised and may be assisted or represented at the hearings by one or more persons of their choice, including attorneys, at the student's expense.

Decisions of the hearing officer will be based solely on the evidence presented at the hearing, will consist of the written statements summarizing the evidence and stating the reasons for the decisions, and will be delivered to all parties concerned.

The education records will be corrected or amended in accordance with the decision of OAH if the decision is in favor of the student. If the decision is unsatisfactory to the student, the student may place with the education records statements commenting on the information in the records or statements setting forth any reasons for disagreeing with the decision of the hearing officer, or both. The statements will be placed in and maintained as part of the student's educational records, and released whenever the records in question are disclosed.

Copies

Students may have copies of their educational records and this policy. The copies of records will be made at the student's expense at a rate of 25 cents per page, up to a maximum of \$25.00.

Complaints

Complaints regarding alleged failures to comply with the provisions of FERPA may be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue SW, Washington, D.C. 20202-4605. Complaints about compliance with the MGDPA may be brought to the SMSU Dean of Students Office, or to the Minnesota Commissioner of Administration.