

BLACK HILLS STATE UNIVERSITY Policy and Procedure Manual

SUBJECT: Family Educational Rights and Privacy Act (FERPA)
NUMBER: 2:8

Office: Office of Academic Affairs; Office of Student Financial Services

Source: [BHSU Faculty Handbook](#)

Associated Forms: [FERPA Educational Records Release Form](#); [Student Directory Opt-Out Request & Authorization](#)

I. PURPOSE

This policy implements the Family Educational Rights and Privacy Act (FERPA) and sets forth the process for upholding FERPA at Black Hills State University (BHSU) in accordance with applicable Federal law.

II. DEFINITIONS

- A. Education records: Records directly related to a student and maintained by BHSU or by a person acting for BHSU. These records include but are not limited to grades, transcripts, class lists, student course schedules, student financial information, and student discipline files. The information may be recorded in any way, including but not limited to handwriting, print, computer media, videotape, audiotape, film, microfilm, microfiche, and email. Education records exclude:
1. Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
 2. Records created and maintained by BHSU Public Safety for a law enforcement purpose;
 3. Records relating to university employees who may be students unless the position requires that the employee be a student in attendance at the institution;
 4. Records made, maintained, or used only in the connection with the treatment of an eligible student that are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in their professional capacity, and are disclosed only to the individuals providing treatment;
 5. Records created or received by BHSU after an individual is no longer a student in attendance and that are not directly related to the individual's attendance as a student (i.e., alumni records); and
 6. Grades on peer-graded papers before they are collected and recorded by faculty.
- B. Eligible student: A student who has reached 18 years of age or (who at any age) is attending an institution of postsecondary education.

- C. Financial aid: For the purposes of this policy, 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 an educational agency or institution.
- D. Legitimate educational interest: The need for a school official to review student education records for the purpose of performing an appropriate educational, research, or administrative function for BHSU.
- E. School officials: Members of BHSU who act in the student's educational interest within the limitations of the scope of their employment. Members may include faculty, administration, clerical, and professional employees and others who manage student education records information, including student employees. Members may also include contractors, volunteers, and others performing institutional functions.

III. POLICY SCOPE

- A. This policy applies to school officials and volunteers who access students' educational records as part of their duties to support BHSU's educational mission. It also applies to eligible students who wish to determine how their directory information is used and who wish to view and/or request amendments to their records.
- B. BHSU shall adhere to FERPA and is committed to protecting the privacy of students while providing access to student information when required to fulfill the University's educational mission. BHSU, therefore, will not disclose personally identifiable information from education records without the student's consent.
- C. Currently enrolled students are notified annually of these rights.
- D. Any university employee who violates this policy may be subject to disciplinary action, up to and including termination.

IV. STUDENTS' RIGHTS TO EDUCATION RECORDS

- A. All eligible students have the right to inspect and review their own educational records.
- B. An eligible student may not receive an official copy of their academic transcripts when certain holds exist on the student's record. Regardless of hold status, eligible students may receive an unofficial copy of their academic transcript, and/or inspect an official copy of their academic transcript.
- C. An eligible student is not permitted to inspect the following records:
 - 1. Financial records, including any information those records contain of the student's parents;
 - 2. Confidential letters and statements of recommendation that were placed in the student's education records before January 1, 1975, if they are used only for the purposes for which they were intended;
 - 3. Confidential letters and statements of recommendation concerning admission to an educational institution, an application for employment, or receipt of an honor that were placed in the student's education records after January 1, 1975, where the student has waived in writing the right to inspect those letters and statements.

4. If the student's education records contain information about another student, each student may inspect only the information that directly relates to them.
5. An eligible student has the right to request amendments to their educational records that the eligible student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.
6. An eligible student has the right to stipulate written consent before the University discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent. The types of disclosures permitted without student consent are described in Section IV of this policy.
7. An eligible student has the right to file a written complaint with the U.S. Department of Education Family Policy Compliance Office regarding an alleged violation under FERPA.

V. PARENTS' RIGHTS TO EDUCATION RECORDS

- A. Parents or guardians may have access to an eligible student's educational records with the written consent of the eligible student by submitting the [FERPA Educational Records Release Form](#) or upon establishing student dependency as defined by Internal Revenue Code of 1986, Section 152. Parents and guardians must provide the University a copy of their filed Federal Income Tax Form from the most recently completed calendar tax year.

VI. DISCLOSURES PERMITTED WITHOUT STUDENT CONSENT

- A. BHSU may, but is not required to, disclose personally identifiable information from a student's education records without prior written consent in the following situations, after using reasonable methods to identify and authenticate the identity of the parties to whom it discloses such information:
 1. The disclosure is to other school officials, including teachers, within BHSU whom the university has determined to have legitimate educational interests.
 2. The disclosure is to a contractor, consultant, volunteer, or another party to whom BHSU has outsourced institutional services or functions, provided that the party
 - a. Is considered a school official by BHSU and has a legitimate educational interest;
 - b. Performs an institutional service or function for which BHSU would otherwise use employees;
 - c. Does not disclose the information to any other party without the prior consent of the eligible student; and
 - d. Uses the information for the purposes only for which the disclosure was made.
 - e. Subject to the requirements of 34 C.F.R. 99.34, the disclosure is to officials of another school, school system, or institution of postsecondary education 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.

- f. Subject to the requirements of 34 C.F.R. 99.35, the disclosure is to authorized representatives of
 - i. The Comptroller General of the United States;
 - ii. The Attorney General of the United States;
 - iii. The Secretary of the U.S. Department of Education or an official or employee of the Department of Education acting for the Secretary under a delegation of authority; or
 - iv. State and local educational authorities.
- g. The disclosure is 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, amount, and/or conditions for the financial aid; or enforce the terms and conditions of aid.
- h. The disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to: (1) develop, validate, or administer predictive tests; (2) administer student aid programs; or (3) improve instruction. BHSU may disclose personally identifiable information under this section, only if
 - i. the study is conducted in a manner that does not permit personal identification of parents and/or students by individuals other than representatives of the organization that have legitimate interests in the information;
 - ii. The information is permanently destroyed when no longer needed for the purposes for which the study was conducted; and
 - iii. The University enters into a written agreement with the organization that (a) specifies the purpose, scope, and duration of the study or studies and the information to be disclosed; (b) requires the organization to use personally identifiable information from education records only to meet the purpose or purposes of the study as stated in the written agreement; (c) requires the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests; and (d) requires the organization to destroy permanently all personally identifiable information when the information is no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed. The University is not required to initiate a study or agree with or endorse the conclusions or results of the study.

- iv. The disclosure is to accrediting organizations to carry out their accrediting functions.
 - v. The disclosure is to comply with a judicial order or lawfully issued subpoena for records. These requests shall be directed to the Institutional Research. BHSU shall make a reasonable effort to notify the student prior to release of information in response to the subpoenas or judicial orders, unless the subpoena or court order specifies that the student is not to be notified.
 - vi. The disclosure is in connection with a health or safety emergency and knowledge of the student's information is necessary to protect the health or safety of the student or other individuals. When determining whether a health or safety emergency exists, BHSU may consider the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals. If BHSU determines that there is an articulable and significant threat to the health or safety of a student or other individuals, it may disclose information from education records to any person whose knowledge of the information is necessary to protect the health or safety of the student or other individuals.
- 3. Subject to the requirements in 34 C.F.R. 99.39, 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 BHSU with respect to that alleged crime or offense. BHSU may disclose the final results of the disciplinary proceeding, whether or not BHSU concluded a violation was committed.
 - 4. Subject to the requirements in 34 C.F.R.99.39, the disclosure is in connection with a disciplinary proceeding at BHSU. BHSU must not disclose the final results of the disciplinary proceeding unless it determines that (1) the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and (2) with respect to the allegation made against them, the student has committed a violation of the institution's rules or policies. BHSU may not disclose the name of any other student, including a victim or witness, without the prior written consent of the other student.
 - 5. The disclosure is to a parent of a student at BHSU regarding the student's violation of any federal, state, or local law, or of any rule or policy of BHSU, governing the use or possession of alcohol or a controlled substance if (1) the institution determines that the student has committed a disciplinary violation with respect to that use or possession and (2) the student is under the age of 21 at the time of the disclosure to the parent. This section does not supersede any provision of state law that prohibits BHSU from disclosing information.

6. The disclosure concerns sex offenders and other individuals required to register under section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, 42 U.S.C. 14071, and the information was provided to BHSU under that statute and applicable federal guidelines.
- B. The disclosure is information BHSU has designated as “directory information.”
Directory information at BHSU is defined as follows:
 1. Name
 2. Student identification number
 3. Telephone number(s)
 4. University student email address
 5. Photographs
 6. Participation in officially recognized activities and sports
 7. Weight and height of members of athletic teams
 8. Hometown city and state
 9. Verification of current enrollment
 10. Dates of enrollment
 11. Degrees conferred, dates, major or field of concentration, and honors received

VII. PROCEDURES

A. Students’ Inspection Rights

1. An eligible student who wishes to inspect their student records should submit to the Registrar’s Office a written request that identifies the record(s) the eligible student wishes to inspect. The Registrar’s Office will review the request and forward as necessary if the records are kept by another office. The office where the records are held will make arrangements with the student for access and inspection. The office providing the copies may charge a reasonable fee to cover copying costs, but will not charge a fee to search for or retrieve the requested records. The office that houses the records may deny a request for a copy of education records if the copies and records are so voluminous that copying them would be unreasonably burdensome.

B. Student’s Amendment Rights

1. An eligible student who wishes to request an amendment should retrieve and complete the appropriate form by contacting the University Registrar’s Office. If the University decides not to amend the record as requested, the student will be notified in writing of the decision and of the student’s right to a hearing regarding the request for amendment. In addition, the student will also receive information about the hearing procedures.

C. Directory Information

1. Students may request, at any time, that directory information be withheld or made Confidential, by completing the [*Student Directory Opt Out Request & Authorization*](#) form and submitting it to the Registrar’s Office.
2. The Confidentiality restriction will remain on the student’s record until rescinded in writing.

3. Eligible students should be aware that restricting the release of directory information has other consequences. For instance, a FERPA restriction makes it difficult or impossible for potential employers to verify enrollment or to verify degrees earned from BHSU. The student further, may only transact business in person after presenting picture identification.

D. Students' Right to Consent

1. An eligible student who wishes to provide the University signed and written consent to disclose their eligible student records should complete the [FERPA Educational Records Release](#) and submit it to the Registrar's Office.

Responsible Administrator: The Vice President for Enrollment Management, or designee, is responsible for the annual ad hoc review of this policy and its procedures. The University President is responsible for approval of this policy.

SOURCE: Approved by President on 9/23/2021; revised 2023.09.18