Chapter 172-191 WAC
STUDENT EDUCATION RECORDS

Last Update: 12/12/25

WAC

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WAC 172-191-010 Purpose. The purpose of this chapter is to establish rules and procedures to comply with the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA) 20 U.S.C. Sec. 1232g. FERPA provides students with the following rights:

(1) The right to inspect and review their education records;

(2) The right to seek amendment of their education records to correct information which they believe is inaccurate, misleading or otherwise in violation of student privacy rights;

(3) The right to consent to disclosure of personally identifiable information, except for disclosure to school officials with a legitimate educational interest and except to the extent FERPA authorizes disclosure without consent; and

(4) The right to be informed annually of their rights under the act if they are currently in attendance.

The remainder of this chapter details how these rights shall be administered and protected for students of Eastern Washington University.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-010, filed 9/14/09, effective 10/15/09.]

WAC 172-191-020 Definitions. The following definitions shall apply in interpreting these regulations:

"Attendance" includes, but is not limited to:

(a) Attendance in person or by paper correspondence, video conference, satellite, internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and

(b) The period during which a person is working under a work-study program.

"Biometric record" as used in the definition of personally identifiable information, means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.

"Education record" is defined as any record maintained by the institution or by a person acting for the institution that is directly related to the student.

(a) Education records include, but are not limited to:

(i) Official transcripts of courses taken and grades received; records relating to prior educational experience; and admission records;

(ii) Tuition and payment records;

(iii) Student disciplinary records;

(iv) Course records (e.g., examinations, term papers, essays, etc.); and

(v) Employment records based on student status are part of the student's education record (e.g., workstudy and graduate assistant teaching).

(b) Education records do not include the following:

(i) Records that are in the sole possession of the maker and are not accessible or revealed to any other person except a temporary substitute for the maker of the record (e.g., private advising notes);

(ii) Law enforcement records created by Eastern Washington University campus police for the purposes of law enforcement, except that records created by another university department remain education records while in the possession of university police;

(iii) Employment records that are maintained in the normal course of business relating exclusively to the individual in that person's capacity as an employee and are not available for any other purpose;

(iv) Health care records on a student that are created or maintained by a health care provider or health care facility, including, but not limited to, a physician, psychiatrist, psychologist or paraprofessional acting in a professional capacity or assisting in connection with the treatment of the student and disclosed only to those individuals providing treatment or a health care provider of the student's choice (see also chapter 70.02 RCW);

(v) Records that only contain information about an individual after he or she is no longer a student at that agency or institution and that are not directly related to the individual's attendance as a student (e.g., alumni records); and

(vi) Grades on peer-graded papers before they are collected and recorded by a faculty member.

"Parent" is defined as a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or a guardian.

"Personally identifiable information" includes, but is not limited to, the student's name; the name of the student's parent or other family member; the address of the student or student's family; a personal identifier such as the student's Social Security number or student number; student's date of birth, student's place of birth, student's mother's maiden name; biometric record, or other information that alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or information requested by a person who the university reasonably believes knows the identity of the student to whom the education record relates.

"Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

"Student" is defined as any person who is or has been in attendance at Eastern Washington University for whom the university maintains educational records.

"Student net ID" means a unique identifier that allows students to use the university network domain.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-020, filed 9/14/09, effective 10/15/09.]

WAC 172-191-030 Annual notification of rights. Eastern Washington University will provide students, who are currently attending, annual notification of their rights as required by the Family Educational Rights and Privacy Act. Notice will be provided through university catalogs, quarterly course announcements, or other publications and media that the university deems appropriate. Copies of the university rules are available through the Washington Administrative Code. The university will make copies available to students, if requested. At a minimum, annual notification will include the following information:

(1) Rights and procedures related to inspection, review, and requests to amend education records;

(2) Rights to consent to disclosure of personally identifiable information contained in student records, except to the extent that such disclosure is legally authorized without consent;

(3) Rights to file a complaint with the department of education concerning alleged failures of the institution to comply with FERPA; and

(4) University policies related to disclosure of education records to school officials with a legitimate educational interest.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-030, filed 9/14/09, effective 10/15/09.]

WAC 172-191-040 Right of review and inspection. Any student shall have a right, subject to the limitations described below, to inspect and review his or her education records maintained by the university.

(1) The university may require proof of identification such as: A driver's license; university student identification card; or other photographic identification.

(2) The university will comply with a request for access to education records within a reasonable period of time, but not more than forty-five days after it has received the request.

(3) Restrictions:

(a) Financial records of the parents of a student or any information contained therein shall not be made available to the student.

(b) Confidential letters and statements of recommendation, which were placed in a student's education records before January 1, 1975, shall not be made available to the student unless such letters or statements were used for purposes other than those for which they were specifically intended.

(c) Confidential letters and statements of recommendation, which were placed in a student's education records on or after January 1, 1975, shall not be made available to the student if:

(i) The student has waived his or her right to inspect and review those items in accordance with subsection (4) of this section; and

(ii) The letters and statements involved relate to the student's:

(A) Admission to any educational institution;

(B) Application for employment; or

(C) Receipt of an honor or honorary recognition.

(d) The right to review and inspect does not include records made, maintained, or used by the institution that do not constitute an education record.

(e) In the case of any education records relating to a student which also include information regarding another student or students, the right to review and respect is limited to the information related to the student making the request. Responsible university officials will redact any personally identifiable information relating to any other student(s).

(4) Waivers: A student or a person applying for admission may waive his/her right of access to confidential statements described in subsection (3)(c)(ii) of this section.

(a) Such waivers may not be required as a condition for admission or receipt of a service or benefit from the institution.

(b) Such waivers shall apply to recommendations only if:

(i) The student is, upon request, notified of the names of all persons making confidential recommendations; and

(ii) Such recommendations are used solely for the purpose for which they were specifically intended.

(c) Waivers must be in writing and signed and dated by the student.

(d) Waivers may be revoked, in writing, by the student; however, the revocation will be effective only for confidential statements or records dated after the revocation.

(5) Destruction of records: Student education records may be destroyed in accordance with the university's approved retention schedule. In no case will any record which is requested by a student for review in accordance with these regulations be removed or destroyed prior to final disposition of the records request.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-040, filed 9/14/09, effective 10/15/09.]

WAC 172-191-050 Obtaining copies of records. Students may obtain copies of their education records. The office of the registrar is the only office which may issue an official transcript of the student's academic record. Charges for copies shall not exceed the cost normally charged by the university copy center (except in cases where charges have previously been approved for certain specified services).

(1) The university may refuse to provide copies of education records including transcripts and diplomas in the following circumstances:

(a) If the record is a secure exam as determined by the department that maintains the exam, so that the integrity of such exams may be protected; and/or

(b) If disciplinary action is pending or sanctions are not completed.

(2) The university must provide copies of education records, subject to the provisions of subsection (1) of this section, in the following circumstances:

(a) If failure to do so would effectively prevent the student from inspecting and reviewing a record;

(b) When records are released pursuant to a student's consent and the student requests copies; and/or

(c) When the records are transferred to another educational institution where the student seeks to attend or intends to enroll and the student requests copies.

[Statutory Authority: RCW 28B.35.120(12). WSR 21-01-103, § 172-191-050, filed 12/11/20, effective 1/11/21; WSR 09-19-064, § 172-191-050, filed 9/14/09, effective 10/15/09.]

WAC 172-191-060 Amendment of records. If a student believes his/her education records contain information that is inaccurate, misleading or in violation of the student's rights of privacy, the student may ask the university to amend the record. Requests for amendment must be submitted to the registrar's office in writing. The registrar will review the request and may consult other university personnel who participated in creation of the record to determine whether to grant the request for amendment.

(1) If the university decides to grant the student's request, the university shall amend the education record and the registrar will inform the student of the action taken. Such notification will be in writing and will be made within a reasonable time.

(2) If the university decides not to amend the education record as requested, the registrar will notify the student in writing within a reasonable time after receiving the request for amendment. Notification will also inform the student of his/her right to a hearing as detailed in WAC 172-191-070.

(3) If a student wants a hearing, the student must make a written request within ninety days of the date of the denial. The request shall be submitted to the registrar and must identify why the student believes the information contained in the education record(s) is inaccurate, misleading, or in violation of the privacy rights of the student.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-060, filed 9/14/09, effective 10/15/09.]

WAC 172-191-070 Hearings. Following receipt of a request for a hearing under WAC 172-191-060, the registrar will schedule the hearing. The assistant vice president and registrar or his/her designee will act as the hearing officer and will provide the student with written notice of the hearing's date, time and place reasonably in advance of the hearing. The student will be provided an opportunity to present evidence relevant to the contested part of the education record. The student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney.

(1) The assistant vice president and registrar or his/her designee will render his/her decision in writing within a reasonable period of time following the hearing. The decision of the officer shall be the university's final decision. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision. The assistant vice president and registrar or his/her designee cannot have a direct interest in the outcome of the hearing.

(2) If the assistant vice president and registrar or his/her designee determines that the record is inaccurate, misleading, or in vio-

lation of the privacy rights of the student and grants the student's appeal, the assistant vice president and registrar or his/her designee will amend the education records of the student accordingly and inform the student in writing of his/her decision and of the amendment.

(3) If the assistant vice president and registrar or his/her designee determines that the record is accurate, not misleading and not in violation of the privacy rights of the student and denies the student's appeal, the assistant vice president and registrar or his/her designee shall notify the student of his/her decision in writing and shall inform them of the right to place a statement in the record commenting on the contested information in the record or stating why he/she disagrees with the decision of the university or both. The university must maintain the statement with the contested part of the record for as long as the record is maintained and must disclose the statement whenever it discloses the portion of the record to which the statement relates.

(4) The appropriateness of official academic grades is not subject to review pursuant to this process.

[Statutory Authority: RCW 28B.35.120(12). WSR 20-12-061, § 172-191-070, filed 5/29/20, effective 6/29/20; WSR 09-19-064, § 172-191-070, filed 9/14/09, effective 10/15/09.]

WAC 172-191-080 Disclosure of education records requiring consent. Students shall provide a signed and dated written consent before an educational agency or institution discloses personally identifiable information from a student's education records, except as provided by WAC 172-191-090. The written consent must:

(1) Specify the records that may be disclosed;

(2) State the purpose of the disclosure; and

(3) Identify the party or class of parties to whom the disclosure may be made.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-080, filed 9/14/09, effective 10/15/09.]

WAC 172-191-090 Disclosures authorized without consent. The university will use reasonable methods to identify and authenticate the identity of persons to whom it discloses personally identifiable information from education records and will not permit the access to or the release of education records or personally identifiable information other than "directory information" as defined in WAC 172-191-100, without the student's consent, to any party other than the following:

(1) Agencies or organizations requesting information in connection with a student's application for, or receipt of, financial aid if the information is necessary to:

(a) Determine eligibility for financial aid;

(b) Determine the amount of financial aid;

(c) Determine the conditions of financial aid; or

(d) Enforce the terms and conditions of financial aid.

(2) Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education, or state or local authorities requiring access to education records, in connection with the audit or

evaluation of a federal or state supported education program or in connection with the enforcement of or compliance with federal legal requirements which relate to such a program.

(3) School officials who have a legitimate educational interest in the records.

(a) A "school official" is:

(i) A person employed by the university in an administrative, supervisory, academic, research, support staff, law enforcement, or health care service position;

(ii) A person serving on the university's board of trustees;

(iii) A student serving on an official university committee or assisting another school official in fulfilling their professional responsibilities (examples include, but are not limited to, service on a disciplinary committee and work study students); and

(iv) A contractor, consultant, volunteer or other party to whom the university has outsourced to provide a service and/or to assist another school official in conducting official business (examples include, but are not limited to, an attorney, an auditor, a collection agency, or the National Student Clearinghouse, an agency which acts as a clearinghouse for student loan deferment reporting).

(b) "Legitimate educational interest" exists if the information requested by the school official is necessary for the official to perform a task specified in his/her position description or contract agreement including: The performance of a task related to a student's education; the performance of a task related to the discipline of a student; the provision of a service or benefit relating to the student or student's family, such as a health education, counseling, advising, student employment, financial aid, or other student service related assistance; the maintenance of the safety and security of the campus; and/or the provision of legal assistance regarding a student matter.

(4) Parent of a minor student or a nonminor dependent student, as defined in the Internal Revenue Code and upon submission of a copy of the most recent Internal Revenue Service annual tax return showing the student as a dependent.

(5) 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.

(6) Organizations conducting studies for, or on behalf of, the university for the purpose of developing, validating, or administering predictive tests; administering student aid programs; or improving instruction, if the studies are conducted in a manner that will not permit the personal identification of students or their parents by persons other than representatives of such organizations who have legitimate interests in the information; such information will be destroyed when no longer needed for the purposes for which it was provided; and the university enters into a written agreement with the organization that specifies the purpose, scope and duration of the study and the information to be disclosed, requires the organization to use personally identifiable information from education records only to meet the purpose(s) of the study as stated in the written agreement; and requires the organization to conduct the study in a manner that does not permit personal identification of parents and students to anyone other than representatives of the organization with legitimate interests, and requires the organization to destroy or return all personally identifiable information within a specified time period when it is no longer needed for the purposes for which the study was conducted.

(7) Accrediting organizations to carry out accreditation functions.

(8) Persons or entities designated by a judicial order or lawfully issued subpoena, upon the condition that the university makes a reasonable effort to notify the student of all such orders or subpoenas and of its intent to release records in advance of compliance with the order or subpoena, unless:

(a) It is a federal grand jury subpoena and the court has ordered that the existence or the contents of the subpoena or the information furnished in response to the subpoena not be disclosed;

(b) A 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 not be disclosed; or

(c) An ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of an offense listed in 18 U.S.C. 2332b (g)(5)(B) or an act of domestic or international terrorism as defined in 18 U.S.C. 2331.

(9) Appropriate persons, including parents of an eligible student, in connection with an emergency if the knowledge of the information is necessary to protect the health or safety of the student or other individuals.

(10) Persons who request information that is designated as "directory information."

(11) Victims alleging a crime of violence or a nonforcible sex offense, the final results of a disciplinary proceeding conducted by the university after October 7, 1998, with respect to the alleged crime or offense. Disclosure is permitted regardless of whether the university concluded a violation was committed.

(12) To others, the final results of the disciplinary proceeding when, at its discretion the university believes that disclosure will serve a legitimate educational interest, and determines through a disciplinary proceeding conducted under its student conduct code that the alleged student perpetrator committed a crime of violence or a nonforcible sexual offense that is a violation of the university's rules or policies with respect to such crime or offense. For purposes of this subsection, "final results" means the name of the student perpetrator, the violation committed, and any sanction imposed by the university on that student. Names of other students involved in the violation, such as a victim or witness, will be released only with the written consent of those students.

(13) Parent of a student of the university regarding the student's violation of any federal, state, or local law, or of any rule or policy of the university, governing the use of alcohol or controlled substance, if the student is under the age of twenty-one, and the university had determined that the student has committed a disciplinary violation with respect to that use or possession.

(14) When a parent or eligible student initiates legal action against the university or when the university initiates legal action against the parent or eligible student, the university may disclose to the court any education records of the student that are relevant to the legal action.

(15) Students upon providing evidence sufficient to demonstrate that the requesting individual is in fact the student to whom the records relate such as: A driver's license; a university student identification card; or other photographic identification.

(16) For deceased students, members of the family or other persons with the written approval of the family or representatives of the estate. The request for education records must be accompanied by a copy of the death certificate or obituary. Absent written approval from the family or representative of the estate, only directory information will be disclosed to persons upon request.

(17) The disclosure concerns sex offenders and other offenders required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994, and the information was provided to the educational agency or institution under 42 U.S.C. 14071 and applicable federal guidelines.

(18) The disclosure involves records or information from which all personally identifiable information has been removed.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-090, filed 9/14/09, effective 10/15/09.]

WAC 172-191-100 Directory information. Directory information is defined to include: Student's name, university email address, telephone number; participation in officially recognized activities and sports; weight, height and the month and day of birth for athletic team members; dates of attendance at the university, enrollment status, and class standing; major field of study, degrees and awards received; and the most recent previous educational agency or institution attended by the student.

The university may release "directory information" unless the student submits a formal request restricting the disclosure of the information to the registrar's office. A student's election to opt out of directory information disclosures does not prevent the university from disclosing or requiring a student to disclose their name, identifier, or university email address in a class in which the student is enrolled.

[Statutory Authority: RCW 28B.35.120(12). WSR 26-01-076, s 172-191-100, filed 12/12/25, effective 1/12/26; WSR 20-12-061, § 172-191-100, filed 5/29/20, effective 6/29/20. Statutory Authority: RCW 28B.35.120(12) and 42.56.070. WSR 18-06-024, § 172-191-100, filed 2/27/18, effective 3/30/18. Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-100, filed 9/14/09, effective 10/15/09.]

WAC 172-191-110 Right to file a complaint. Students may file a written complaint with the Family Policy Compliance Office of the U.S. Department of Education concerning alleged failures by the university to comply with the requirements of the Family Educational Rights and Privacy Act or its implementing regulations.

[Statutory Authority: RCW 28B.35.120(12). WSR 09-19-064, § 172-191-110, filed 9/14/09, effective 10/15/09.]