

**THE FLORIDA INTERNATIONAL UNIVERSITY BOARD OF TRUSTEES
FLORIDA BOARD OF GOVERNORS**

NOTICE OF PROPOSED AMENDMENT TO REGULATION

REGULATION NO.: FIU-108

REGULATION TITLE: Access to Student Education Records

SUMMARY: This Regulation is amended to permit disclosure of student names and email addresses to the University community in the use of Microsoft 365 (Teams) and renumbering the remaining categories accordingly.

TEXT OF REGULATION: The full text of the proposed Regulation can be viewed below and on the website of The Florida International University Board of Trustees, <http://regulations.fiu.edu>. If you would like a copy of the proposed Regulation, please contact Eli Deville, Departmental Administrator, Office of the General Counsel, (305) 348-2103, devillee@fiu.edu.

AUTHORITY: Art IX, sec 7, Florida Constitution and BOG Regulation 1.001

NAME OF PERSON INITIATING PROPOSED REGULATION:

Dr. Elizabeth Bejar, Interim Provost, Executive Vice President and Chief Operating Officer, and Senior Vice President, Division of Academic and Student Affairs

ANY PERSON SEEKING TO COMMENT ON THE PROPOSED REGULATION MUST SUBMIT COMMENTS IN WRITING TO THE CONTACT PERSON LISTED BELOW. ALL WRITTEN COMMENTS MUST BE RECEIVED BY THE CONTACT PERSON WITHIN 14 CALENDAR DAYS OF THE DATE OF PUBLICATION OF THIS NOTICE.

CONTACT PERSON REGARDING THE PROPOSED REGULATION:

Eli Deville, Departmental Administrator, Office of the General Counsel
Florida International University, 11200 SW 8th Street, PC 511, Miami, FL 33199
Email: devillee@fiu.edu Phone: 305-348-2103, Fax: (305) 348-3272.

DATE OF PUBLICATION: May 16, 2022

FULL TEXT OF THE REGULATION IS PROVIDED BELOW

FIU-108 Access to Student Education Records.

Florida International University (University) maintains Student education records in a confidential and secure manner in accordance with the Family Educational Rights and Privacy Act (FERPA) codified in 20 U.S.C. section 1232g, and sections 1002.225 and 1006.52, Florida Statutes.

The University will not release or permit access to education records, or the personally identifiable information contained therein, maintained on a Student except as otherwise permitted by law and this Regulation. Responsibility for custody of all Student educational records and personally identifiable information within them ultimately belongs to the University Registrar. Any University official in possession of education records is required to comply with FERPA and this Regulation. The University Registrar or designated custodian shall ensure that the procedures required by law and this Regulation are in place to control access to and disclosure of Student education records and personally identifiable information contained therein.

1. Definitions.

- a. Agent is any individual or organization who, pursuant to a written agreement, has expressed or implied authorization to represent or act for the University. All agreements designating an Agent with access to Education Records must be reviewed by the University Registrar.
- b. Custodian of Records is the University Registrar and any other designated University employee or agent in possession of education records.
- c. Directory Information means information designated by the University that may be, in the University's sole discretion, disclosed upon request without Student consent. Students may opt out of the University's ability to disclose such information by logging in to the myFIU portal.
- d. Education Records means records maintained by the University and its Agents that contain information directly related to a Student or applicant. A record is any information or data recorded in any medium, including, but not limited to handwriting, print, or digital/electronic, USB drives, or cloud storage. Education Records do not include:
 - i. Sole Possession Records. Personal records created by a University employee or agent that are created as a personal memory aid, kept in the sole possession of the University employee or agent who created it; and the record has not been disclosed to any other persons, including the Student, except to a temporary substitute.
 - ii. Employment Records. Records used only in relation to an individual's University employment. However, the following are education records rather than Employment Records:
 1. Records relating to a Student's University employment if the position in which the Student is employed depends on their status as a Student; and
 2. Records relating to a Student's University employment if the Student receives a grade or credit based on their performance as an

employee.

- iii. Alumni Records. Records created after a Student has graduated from the University.
 - iv. Law Enforcement Records. Records created and maintained by the University Police Department used solely for law enforcement purposes. No member of the University Police Department shall have access to Education Records where this Regulation authorizes release.
 - v. Treatment Records. Records made, used, or maintained by a physician, psychiatrist, psychologist acting in their University recognized professional capacity used only in connection with treatment of the Student, and disclosed only to individuals providing the treatment. For purposes of this definition, treatment does not include remedial educational activities or activities that are part of any academic program or activity.
- e. Pre-enrollment Records are records relating to an individual's application for admission to the University prior to the individual's enrollment in the program for which the application was made. Although Pre-Enrollment Records are not considered education records under FERPA, section 1006.52, Florida Statutes, requires Pre-enrollment Records to be treated in accordance with FERPA.
 - f. Personally Identifiable Information means information which includes a personal identifier, such as the Student's social security number or a Student number, or a list of personal characteristics which would make the Student's identity easily traceable.
 - g. Student means an individual enrolled at the University, on or off-campus, including on-line courses and non-degree seeking Students.
2. **Annual Notification.** The University will publish a notice of Student rights under FERPA on its website and in the graduate and undergraduate catalogs. Additional means of notification may be utilized including e-mails to Students. The notice will include, but is not limited to, Student rights relating to educational records, including the right to file complaints, the procedures to be followed in order to exercise such rights, and the types of information entered in the educational records maintained by the University.
 3. **Disclosures in Microsoft 365. Beginning in May 2022, FIU will migrate to Microsoft 365 to enable more efficient and secure operations under one platform. This includes Student access to Microsoft Teams which can be used to communicate and collaborate with members of the University community. Microsoft Teams will display the Student name and FIU email address to any member of the University community with an active FIU Microsoft Teams account. This information may only be used for internal legitimate educational purposes. A Student may request exclusion of their name and email address from Microsoft Teams by logging into their myFIU portal.**
 - 3.4. **Location and Custodians of Education Records.** Education records are maintained throughout the University and there is no prerequisite for information to be maintained in a specific location for it to be considered an education record. The Student is responsible for specifically identifying their education records for review to the University Registrar

or applicable Custodian of Records. The University Registrar shall serve or designate a University employee to serve as the Custodian of Records. The following University employees are designated as a Custodian of Records for the specified records. All records listed below are located at the Modesto Maidique Campus:

- a. **Academic Counseling** records are maintained by the Associate Provost for Academic and Career Success. Additionally, academic counseling records may be maintained by various departments or colleges depending on the Student's field of study.
- b. **Academic Records** are maintained by the University Registrar
- c. **Athletic Records** are maintained by Athletics Compliance Office
- d. **College of Medicine Records** are maintained by the College of Medicine Registrar.
- e. **Continuing Education Records** are maintained by the Executive Director of Continuing and Professional Studies.
- f. **Disciplinary Records** are maintained in the Student Conduct and Academic Integrity Office.
- g. **Housing Records** are maintained by the Director of University Housing.
- h. **International Student Records** are maintained by the Director, International Student Services,
- i. **Personal Non-Academic Counseling Records** are maintained by the Director of, Counseling and Psychological Services.
- j. **Placement Records** are maintained by the Director of Career and Talent Management.
- k. **Student Financial Aid Records** are maintained by the Director of Financial Aid.
- l. **Student Financial Records** are maintained by the Director of Student Financials.
- m. **Veteran Records** are maintained by the Director of the Office of Veterans and Military Affairs.

4.5. Inspection of Education Records. Students who wish to review their education records should submit a written request to the University Registrar and/or designated Custodian of Records. The request must be in writing and sufficiently identify the education records sought.

- a. Educational records shall be open for inspection, only to the Student, or parents of dependent Students as defined in Section 152 of the Internal Revenue Code. The Custodian of Records shall require the Student, or parents of the Student when applicable, requesting access to present proper identification.
- b. The University Registrar or designee shall advise the Student when and where the records will be available for review. Access to Education Records shall be granted within a reasonable period, but in no case later than forty-five (45) calendar days after the University Registrar or designee receives the Student's written request. The University Registrar or designee shall be present while the Student reviews the education records and retains custody of the records.
- c. When Education Records contain Personally Identifiable Information about more than one (1) Student, a Student may only inspect the information which relates to that Student.
- d. A Student's right to review their education records does not entitle the Student to

copies of their records. In the sole discretion of the University Registrar or designee, the Student must demonstrate that failure to provide the Student with copies of requested education records will effectively deny the Student the right to review such records. In the majority of cases, copies will not be provided to the Student.

- e. The University will charge the following fees for furnishing copies of Education Records, or any material included therein:
 - i. Copies of official transcripts – Ten dollars (\$10.00);
 - ii. Copies of all other educational records – Fifteen cents (\$.15) per page for copying, plus any supplies and mailing costs.
- f. The University reserves the right to refuse a Student's ability to review the following records:
 - i. The financial records of a Student's parents or any information contained therein;
 - ii. Statements and letters of recommendation prepared by University employees or submitted with the Student's application for admission placed in the Student's file prior to January 1, 1975, or which the Student has waived their right of access; or
 - iii. Records excluded from the definition of Education Record.
- g. The University will maintain records of the individuals requesting access to Education Records.

5.6. Access to and Release of Records without Consent. The following persons and organizations are considered "university officials" and may have access to personally identifiable information without the Student's prior consent:

- a. Faculty, administrators, staff and Agents of the University, the Florida International University Board of Trustees, or the Florida Board of Governors whom the University Registrar or Custodian of Education Records has determined to have a legitimate educational interest in the record.
- b. Officials of other colleges and universities in which the Student intends to enroll.
- c. Persons or organizations providing financial aid for which the Student has applied or received, if the information is necessary for such purposes as to determine eligibility for aid, the amount of aid, conditions for aid, or to enforce the terms and conditions of the aid.
- d. Accrediting organizations carrying out their accrediting functions.
- e. Persons in compliance with a judicial order or lawfully issued subpoena. With the exception of subpoenas from federal grand juries or subpoenas issued for law enforcement purposes that order the University to not disclose the existence of the subpoena, the University will notify the Student before the compliance date.
- f. Disclosure to a court if a parent or Student has initiated legal action against the University or if the University has initiated a legal action against a parent or Student.
- g. Appropriate parties in connection with emergencies, as determined by the University, if knowledge of the information is necessary to protect the health or safety of the Student or other persons.
- h. To the victim of a Student Conduct and Honor Code violation involving violence

or non-forcible sexual misconduct.

- i. Other persons who are authorized by federal and state law and regulations to have access to or receive copies of such information.

6.7. Directory Information. Directory Information is designated as:

- a. Student's name;
- b. Major and minor fields of study;
- c. Student classification;
- d. Participation in officially recognized activities and sports;
- e. Weight and height of members of athletic teams;
- f. Dates of attendance;
- g. Degrees and/or awards;
- h. Most recent previous educational institution attended; and
- i. Student's photographic image.

7.8. Requests to Amend Educational Records.

Students who challenge the accuracy of their educational records shall file a written request for amendment with the Custodian of Records. The Student shall also present to the Custodian of Records copies of all available evidence relating to the information being challenged. The Custodian of Records shall consider the request and notify the Student in writing within fifteen (15) business days whether the request will be granted or denied and if denied the right to a hearing on the matter. During that time, any challenge may be settled informally between the Student, or the parents of a dependent Student, and the Custodian of Records, in consultation with other appropriate University employees. If an agreement is reached, it shall be in writing and signed by all parties involved. A copy of such agreement shall be maintained in the Student's records. A Student or the parents of a dependent Student shall not have the right to challenge through this process grades, disciplinary actions, grievances, or similar matters.

a. **Hearing Rights and Procedures.**

- i. **Rights of Appeal.** A Student whose request for amendment to educational records has not been settled or has been denied may file a request for a hearing within thirty (30) business days of the receipt of the letter of denial. The request shall be in writing and shall be filed with the Senior Vice President for Academic and Student Affairs. The request shall set forth the legal and factual basis for seeking correction of the Student's education records. Upon receipt, the Senior Vice President shall appoint a disinterested University official to serve as a hearing officer. The hearing officer shall schedule a hearing within twenty-five (25) business days of the date of receipt of the request for a hearing. The Student shall be given written notice of the time, date, and place of the hearing.
- ii. **Hearing Procedures.** The hearing shall be informal in nature but shall afford the Student an opportunity to present evidence relative to the issues raised in the appeal. The Custodian of Records shall have the same rights as the Student.
- iii. **Hearing Officer's Recommended Order.** The hearing officer shall issue a recommended order within twenty-five (25) business days of the close of the hearing. In rendering a recommended order, the hearing officer shall

consider only such evidence as was offered at the hearing. The hearing officer shall include in the recommended order a summary of the evidence presented and the reasons for his or her recommendations. The original report shall be filed with the Senior Vice President for Academic and Student Affairs and a copy of the recommended order shall be sent to the Student or the parents of a dependent Student and to the Custodian of Records. Upon receipt, the Senior Vice President shall have ten (10) business days in which to issue a final determination on the issues raised in the appeal. If a determination is made that the information in the education record does not require correction, then the Student or a parent of a dependent Student shall have the right to place a statement in the record commenting that the information has been challenged and the reason for the challenge.

8.9. Waiver of Right of Access.

Students and parents of dependent Students have the right to waive their right of access to confidential letters of recommendation and other documents that evaluate Student academic performance.

- a. Such waivers shall be in writing and made a part of the official academic record. A waiver of right to access shall be effective only when the Student or the parents of a dependent Student are notified, upon request, of the names of all persons who are submitting confidential recommendations or evaluations and when the confidential letters of recommendation and other evaluative documents are used solely for the purpose intended.
- b. The University may not condition admission, financial aid, or receipt of any other service or benefit offered by the University, by another public educational institution in Florida or by any other public agency upon being provided a waiver of the right to access by the Student or the parents of a dependent Student.

9.10. Requests for Education Records in Research or Contracts.

- a. All requests for academic research or contracts dealing with information from Education Records shall be referred to the University Registrar. Such requests must be in writing and specifically set forth the type(s) of information to which access is requested and the intended scope of the research project or contract.
- b. The applicable Custodian of Records and the University Registrar shall determine whether to grant the request, in whole or in part, and may condition access upon a guarantee that the researcher or agent will appropriately safeguard the data, no Personally Identifiable Information is published or made available to others, or other reasonable conditions.

10.11. Violations

Any violations of this Regulation must be reported to the University Registrar at ferpa.fiu.edu or confidentially reported to the Ethical Panther Line by visiting compliance.fiu.edu/hotline.

Specific Authority: Art. IX, sec. 7, Fla. Const. History—Formerly 6C8-1.06(3), Amended 4-3-84, 11-2-89, 1-3-93, 11-3-02, Formerly 6C8-11.003, Amended 9-12-08, Amended 3-5-2020.

Amended _____