

METROPOLITAN STATE UNIVERSITY REGULATIONS



Privacy of Education Records Under the Federal Family Educational Rights and Privacy Act and Minnesota Government Data Practices Act

University Policy #1040

Section 1. Authority

Minnesota State Colleges and Universities, including the Office of the Chancellor, must comply with the Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g, and the Minnesota Government Data Practices Act, (MGDPA) Minn. Stat. Chapter 13, in handling education records. In accordance with these and other applicable laws, Metropolitan State University has adopted the following policy.

Section 2. Policy

It is the policy of Metropolitan State University to handle students' education records in accordance with applicable federal and state laws and Minnesota State Colleges and Universities Board Policies and Procedures. All university school officials are responsible for the privacy, security and appropriate use of the education records over which they have responsibility or control and for compliance with applicable laws, regulations, policies, procedures and other standards. The university shall enact appropriate procedures and provide training resources to its workforce on an on-going basis to implement this policy.

Section 3. Effective Date

This policy shall become effective upon signature by the President, and shall remain in effect until modified or expressly revoked.

Section 4. Responsibility

The responsibility for implementation of this policy is assigned to the Vice President for Student Affairs, who may delegate duties as appropriate. Implementation of this policy will include, but is not limited to, the following:

- (a) Development and maintenance of institutional policies, procedures and safeguards relative to student data privacy;

- (b) Preparation of public documents required by federal law and state statutes;
- (c) Review and approval of institutional forms used to collect data on students to ensure that students receive proper notification of rights and other pertinent information;
- (d) Organization and maintenance of student data privacy files, including all forms used to collect data on students, public documents and other pertinent records; this shall include a listing of the types and responsible authorities for educational records;
- (e) Preparation of the official "notification of rights" statement available to students on the university web site and various printed documents;
- (f) Maintenance of records of disclosure of personally identifiable information as required by law.

Section 5. Definitions

The following definitions apply for the purpose of this policy:

Student means an individual currently or formerly enrolled or registered at Metropolitan State, applicants for enrollment or registration at Metropolitan State, or individuals who receive shared time educational services from Metropolitan State.

Educational data or *education records* means information recorded in any form directly related to an individually identifiable student collected, created, received, maintained or disseminated by Metropolitan State or by a person acting for the Metropolitan State.

Education records do not include:

- (1) records of instructional 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;
- (2) records created by the Metropolitan State safety and security unit, maintained by the safety and security unit apart from educational data and solely for law enforcement purposes, and are not disclosed to Metropolitan State school officials outside of the law enforcement unit;
- (3) 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;

(4) medical or psychological *treatment* records, which are maintained and accessible only to professionals for treatment purposes;

(5) records that only contain information about a former student after that individual is no longer a student at the institution (alumni data).

Section 6: Notice of Rights and Policy

Enrolled students will be provided information about their rights under FERPA (FERPA Notice) including, but not limited to, the following rights to: 1) inspect and review the student's education records; 2) seek amendment of the student's education records if believed to be inaccurate, misleading, incomplete, or otherwise in violation of the student's privacy rights; 3) consent to disclosure of personally identifiable information contained in education records, as required by law; 4) file a complaint with the U.S. Department of Education concerning alleged violations of FERPA.

The Metropolitan State FERPA Notice will be provided to enrolled students at least annually by publications in the catalog, course schedules, university web site and at new student orientation. The policy will be available in alternative formats or translations by contacting the registrar at 651-793-1227.

Copies of this policy are available by: requesting a copy from the Office of Records and Registration, the Vice President for Student Affairs or Student Services Offices, library, or other administrative offices.

Data Privacy Collection Notice

Pursuant to the requirements of the MGDPA, whenever Metropolitan State collects private data from an individual who is the subject of the information, it shall inform the individual: 1) the purpose and intended use of the information; 2) whether the individual may refuse or is legally required to provide the information; 3) any known consequences from giving or refusing to supply the data; 4) the identity of individuals who will have access to the information.

Section 7. Access to Student Records

Access by Student

Upon written request, Metropolitan State shall provide a student with access to his or her education records, unless limited by law. All students have the same rights regarding their education records.

There is no charge for viewing the records even if the university is required to make a copy of the record in order to provide access. Responses to requests by students to review their education records shall be immediate, if possible, or within ten business days.

Upon request, the meaning of their education record shall be explained to the student by Metropolitan State 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 individual(s), disclosure cannot include information regarding the other individual(s). A student does not have a right to access the financial information and statements of the student's parents or any information contained therein.

Students do not have access to confidential letters or statements of recommendation placed in education records before January 1, 1975, or after January 1, 1975, if the student waived his/her right of access as permitted by law.

Requests for access to specific types of education records should be made in writing to the appropriate office. <http://www.metrostate.edu/registration/forms.cfm>.

Consent for Release to Third Parties Generally Required

Metropolitan State will not disclose or release to a third party personally identifiable information from education records without the prior written consent of the subject student except as authorized by law.

To be valid, a written consent for the disclosure of education records must: 1) specify the records to 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 disclosure is 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 consent.

A consent to release education records form is available on the university website, <http://www.metrostate.edu/registration/forms.cfm>, and in the Records and Registration Office.

Release without Consent

As required or permitted by law, the Metropolitan State will release personally identifiable information in an education record *without consent* as follows:

- (1) to Metropolitan State school officials who have been determined to have a legitimate educational interest in the records;

Note: Metropolitan State has defined school official as: persons employed by the university in an administrative, supervisory, academic or research, support staff or student worker position (including security personnel and health staff); a person or company with whom the university has contracted (such as an attorney, auditor, or collection agent); a trustee of Minnesota State Colleges and Universities; Office of the Chancellor personnel, 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 official responsibilities.

- (2) to officials of other schools in which the student seeks or intends to enroll, or at which a student is also in attendance, upon the condition that the student receive a copy of the record so disclosed, if requested;
- (3) to federal, state, or local officials or agencies authorized by law, including, but not limited to authorized representatives of: the Comptroller General of the United States; the Attorney General of the United States; the Secretary of the United States Department of Education; or state and local educational authorities;
- (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) in compliance with a judicial order or lawfully issued subpoena, provided a reasonable effort is made to notify the student in advance unless such subpoena is a Federal grand jury subpoena or other subpoena issued for a law enforcement purpose and the court or issuing agency specifically directs the institution not to disclose the existence of a subpoena;
- (7) to appropriate persons in an emergency situation if the information is necessary to protect the health or safety of the students or other persons;
- (8) the information has been designated by the Metropolitan State as "Directory information" and the student has not exercised his/her right of non-disclosure;
- (9) the information is the final result of the alleged student perpetrator's disciplinary proceeding to an alleged victim of a crime of violence (as defined in 18 U.S.C. Sect 16) or non-forcible sex offense; or
- (10) the information is the final result of a disciplinary hearing finding that a student has violated the university rules or policies by conduct defined as a crime of violence in 18 U.S.C. Sect 16, or non-forcible sex offense, and the final results were reached on or after October 7, 1998.

The Metropolitan State will inform a third party to whom personally identifiable information is released of the applicable limitations on re-disclosure. 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 such limitations, it will prohibit access to education records for five (5) years.

A consent to release education records form is available on the university website, <http://www.metrostate.edu/registration/forms.cfm>, and in the Records and Registration Office.

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 appropriate office and will also be made available for inspection pursuant to this policy. Records of requests for disclosure no longer subject to audit or under an active request for access will be maintained according to the applicable records retention policy.

Section 8. Directory Information

The following information on students at Metropolitan State is designated as Directory Information, which is public data accessible to the public upon request pursuant to Minn. Stat. Sect. 13.03:

- (1) student's name(s)
- (2) major field of study
- (3) participation in officially recognized activities and sports
- (4) dates of attendance
- (5) most recent previous educational institution attended
- (6) grade level or enrollment status (e.g., undergraduate/graduate; full time or part time)
- (7) degrees, honors and awards received
- (8) date of graduation
- (9) height and weight of members of athletic teams

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 Registrar in writing. *Non-Disclosure of Public Information* forms are available from the Office of Records and Registration. Currently enrolled students should notify the Records Office by the fifth day of the term.

Section 9. Challenge to Record

Students who believe that their education records, public or private, contain information that is inaccurate, misleading, or incomplete may challenge the record. *Note:* the right to challenge a grade does not apply under this policy unless the grade assigned was allegedly inaccurately recorded. Substantive challenges to grades shall be according to University policy #2080—Grading Policy. Data that is being challenged under this section shall be disclosed with the individual's statement of disagreement included with the disclosed data.

A student may discuss his or her concerns informally with the university Data Practices Compliance Official (Registrar). If agreement is reached with respect to the student's request, the appropriate records 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 will be informed of the right to a formal determination. The request for a formal determination must be made in writing to: Vice President for Student Affairs or designee; a written response will be provided within thirty (30) days of the receipt of the challenge. If the challenge is deemed to be accepted, the student will be notified that the data has been corrected, and that past recipients of the incorrect data will be contacted, if possible, including recipients named by the student. If the challenge is not accepted, the student will be notified of that decision and of the right to appeal and have a formal hearing pursuant to the procedures set out in the Administrative Procedure Act.

Student requests for a formal hearing must be made in writing to the Minnesota Commissioner of Administration within 60 days of receiving the 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. Chapter 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.

Section 11. Copies

Students may obtain copies of their education records and this policy upon request. The copies of records will be made at the student's expense at rates established pursuant to this policy.

When individuals request copies of stored data, Metropolitan State University will charge ten cents (\$.10 - .15) per page for photocopying the materials. If the requesting individual desires information which would require considerable time in retrieving data from files or which would require computer programming or data processing time, additional charges may be made; however, such charges will be made know to the subject in advance of the preparation of the data.

The subject will also be informed of alternative forms in which the data could be provided if such alternatives exist.

The charge for official transcripts is currently \$8.00 per transcript; \$13.00 for rush requests. Charge is subject to change without notice.

Official copies of academic records or transcripts will not be released for students who have a delinquent financial obligation or financial "hold" at the University, unless otherwise required by law.

Section 12. 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 may also be submitted to the following designated Metropolitan State official.

Complaints about compliance with the MGDPA may be brought to the Vice President for Student Affairs or to the Minnesota Commissioner of Administration.

Section 13. Signatures

Issued on the 14th day of August, 2007.

Wilson G. Bradshaw, President