

Policy Statement

Capella University complies with the provisions of the Family Educational Rights and Privacy Act (FERPA) of 1974, which regulates the confidentiality of data in learner education records and terms for its disclosure. A copy of the act is on file in the Office of the Registrar. The registrar is the university official responsible for ensuring compliance with the act and creating relevant policies and procedures regarding the release of learner education records and related information under the act.

Definition of Education Records

Section 99.3 of FERPA defines education records as "(1) directly related to a student; and (2) maintained by an educational agency or institution or by a party acting for the agency or institution." At Capella University, education records include the following documents, whether electronic or in any other format:

- Documents collected or created during the application process including but not limited to the university application, professional history, and transcripts.
- Documents collected or created during the course of an academic program including but not limited to transcripts, test scores, grades, university advising records, financial aid information, academic dishonesty records, learner conduct files, and records of educational services provided to the learner.
- Official correspondence to or from a learner pertaining to his or her academic progress, advising, financial status, learning disability records, physical disability records, academic dishonesty records, and disciplinary and learner conduct records.

Education records do not include the following documents:

- Records and notes of instructional, supervisory, administrative, and certain educational personnel that are the sole possession of the maker and are not accessible or revealed to any other individual except a substitute who performs the duties of the individual who made the records and/or notes on a temporary basis.
- Records relating to individuals who are employed by the institution that are made and maintained in the normal course of business, that are related exclusively to individuals in their capacity as employees, and that are not used for any other purpose.
- Records relating to a learner that are (1) created or maintained by a physician, psychiatrist, psychologist, or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (2) used solely in connection with providing treatment to the learners; and (3) not disclosed to anyone other than individuals providing such treatment, so long as the records can be personally reviewed by a physician or other appropriate professional of the learner's choice. "Treatment" in this context does not include remedial educational activities or activities that are part of the program of instruction at the institution.
- Institutional records that contain only information related to a learner after he or she is no longer a learner at the institution (e.g., information gathered on the accomplishments of alumni).

Notification of Rights under FERPA

The Family Educational Rights and Privacy Act (FERPA) provides learners certain rights with respect to their education records. The rights include:

1. The right to inspect and review the learner's education records within 45 days of the university receiving a request for access. Learners should submit to the registrar a written request that identifies the record(s) they wish to inspect. The registrar will make arrangements for access and notify the learner of procedures for records access and inspection.
2. The right to request the amendment of the learner's education records where the learner believes information is inaccurate or misleading. Learners may ask the University to amend a record that they believe is inaccurate or misleading. To do so, learners should submit to the registrar a written request that clearly identifies the part of the record they want changed, and that specifies why the record is inaccurate or misleading. If the University decides not to amend the record as requested by the learner, the University will notify the learner of the decision and advise the learner of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the learner when notified of the right to a hearing.
3. The right to consent to disclosure of personally identifiable information contained in the learner's education records is permitted under specific circumstances. FERPA allows disclosure without consent to school officials with legitimate educational interests. A school official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including law enforcement 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 learner serving on an official committee, such as a disciplinary or grievance committee or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if an education record must be reviewed in order to fulfill his or her professional responsibility. Upon request, the university may disclose education records without consent to officials of another school in which a learner seeks or intends to enroll.
4. The right to file a complaint with the U.S. Department of Education alleging failures by the University to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-4605
(202)260-3887 phone
(202)260-9001 fax

Learners receive notification of their rights under FERPA each June.

Right to withhold copies of official documents

The University reserves the right to deny copies of official transcripts or other records (not including those records required to be made available under FERPA), if the learner has an overdue financial obligation to the University or if there is an unresolved disciplinary or academic dishonesty action against the learner.

Disclosure of Learner Information

Information contained in a learner's education record that generally would not be considered harmful or an invasion of privacy if disclosed to outside organizations, is considered directory information. Directory information may be released without learner consent upon request by any individual or agency.

At Capella University, directory information is defined as the following:

- Learner name
- State or country of residence
- E-mail address
- School affiliation
- Degree Program (BS, MS, MBA, Certificate, PhD, PsyD)
- Major field of study (specialization, or concentration)
- Class level (freshman, sophomore, junior, senior, graduate, or year in program)
- Enrollment status (full-time or part-time)
- Certificates or degrees received, and dates conferred
- Dates of attendance

FERPA provides learners the right to withhold disclosure of their directory information. Learners are encouraged to carefully consider the ramifications of withholding directory information. Without subsequent written consent from the learner, withholding the disclosure of directory information will prohibit the University from publishing the learner's name in commencement programs, completing employer verifications, and complying with other common requests for directory information.

FERPA generally requires prior written consent from the learner before an educational agency or institution may disclose personally identifiable information from education records to a third party. However, the law contains exceptions to this general rule. Exceptions that allow release of personally identifiable information without prior written consent are as follows:

- Ex Parte order - permits educational agencies and institutions to disclose personally identifiable information from the learner's education records to the Attorney General of the United States or designee in connection with the investigation or prosecution of terrorism crimes, without the consent of the learner.
- Lawfully issued subpoena and court order - allows educational agencies and institutions to disclose education records to the entity or persons designated in a federal grand jury subpoena and/or law enforcement subpoena without notifying the learner. With all other subpoenas, a reasonable effort will be made to contact the learner prior to the release of information.
- Health or safety emergency - permits non-consensual disclosure of education records or personally identifiable information in response to a specific situation that presents imminent danger to a learner or other members of the community, or to avert or diffuse serious threats to the safety or health of a learner or another individual.
- Directory information - allows a school to disclose "directory information" from its education records without prior consent only after giving notice to learners of the institution's directory information policy and giving learners the opportunity to waive disclosure of their "directory information."
- Disclosure to the Immigration and Naturalization Service (INS) - permits education institutions to release personally identifiable information for learners who have signed a Form I-20 for the purpose of allowing the INS to determine a learner's nonimmigrant status. The Form I-20 contains a consent provision allowing for the disclosure of information to INS.
- Disclosure to federal, state, local, or independent organizations engaged in studies for or on the behalf of Capella University - allows disclosure of personally identifiable information in order to develop, validate, or administer learner aid programs; to administer predictive tests; or to improve education only if two conditions are met: 1) Capella University receives confirmation that the study will be conducted in a manner that does not permit personal identification of learners and/or parents by anyone other than a representative of the organization conducting the study; and 2) Information that could result in personal identification of learners and/or parents

will be destroyed when it is no longer needed for the study or the purposes for which the study was conducted.

Procedures

Withholding Consent for Disclosure

Learners wishing to withhold consent for the disclosure of their directory information must complete and submit the Withholding Disclosure of Directory Information form on Learner iGuide. Academic Records staff will flag the records of these learners, and directory information for these learners will not be released.

Annual Notification of Rights

The required annual notification to learners will be given to the communications department during May by the registrar for distribution during the month of June.