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# Student Records

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## I. REASON FOR THIS POLICY

This policy is intended to implement the requirements of the Family Educational Rights & Privacy Act (FERPA). To the extent that there is any dispute concerning the terms and conditions of the policy, provisions of FERPA will prevail in each instance.

## II. STATEMENT OF POLICY

### Disclosure of Education Records.

The University of South Dakota will disclose information from a student’s education records only with the written consent of the student, except

1. To school officials who have a legitimate educational interest in the records. School officials may not release any information to a third party without the written consent of the student, except for letters of recommendation which are made from the recommender’s personal observation or knowledge and do not include personally identifiable information from a student’s education record. If a student wishes the recommender to include such information (grades, GPA, etc.), the student must provide the school official with a signed release that will be placed in the student file that holds the education record.

2. To officials of another school, upon request, in which a student seeks or intends to enroll. The University of South Dakota will make a reasonable attempt to inform the student prior to the disclosure, unless the request was initiated by the student.
3. To certain officials of the U.S. Department of Education, the Comptroller General of the United States, the Attorney General of the United States, and state and local educational authorities, in connection with certain state or federally supported education programs.
4. To persons or organizations providing financial aid to students or determining financial aid decisions, on the condition that the information is necessary to: 1) determine eligibility for the aid; 2) determine the amount of the aid; 3) determine the conditions for the aid; or 4) enforce the terms and conditions of the aid.
5. If required by state law requiring disclosure that was adopted before November 19, 1974.
6. To organizations conducting certain studies for or on behalf of The University of South Dakota or any of the schools or colleges of The University of South Dakota to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction.
7. To accrediting organizations to carry out their functions.
8. To the parent(s) of an eligible student who claimed the student as a dependent on their most recent income tax return, provided the parent(s) provide adequate documentation of the dependent status, in writing. Disclosure may not be made without such written documentation.
9. To comply with a judicial order or a lawfully issued subpoena. The University of South Dakota will make a reasonable attempt to inform the student prior to the disclosure, unless ordered not to do so by the subpoena.
10. To appropriate parties in a health or safety emergency.
11. To a victim of an alleged crime of violence, including a non-forcible sex offense, who requests the final results of any institutional disciplinary proceeding against the alleged perpetrator of the crime with respect to that crime.
12. To parents regarding the student's violation of any federal, state, or local law, or of any institutional policy or rule governing the use of alcohol or a controlled substance, if: 1) the student is under the age of 21 and unemancipated at the time of disclosure; and 2) the institution has determined that the student committed a disciplinary violation with respect to that use or possession.
13. To Veterans Administration officials, U.S. Citizenship and Immigration Services, the Federal Bureau of Investigation, military recruiters, or the Internal Revenue Service, under certain state or federal laws.
14. To the parent or guardian, an appointee of the parent or guardian, the next of kin, or a personal representative of the student's estate of a student who is officially declared a missing person by state or federal authorities. This exception applies only if the person is thought by the administration to be reasonably conducting business on behalf of the student. The University of South Dakota reserves the right to limit or deny access.

A student's consent to release information from his/her education record to a third party, when required, must be submitted in writing to the custodian of the record, office of the dean of the

school or college in which the student is enrolled, or in the case of unclassified students, to the University Registrar. Such written consent must: 1) specify the records to be released; 2) state the purpose of the disclosure; 3) identify the party or class of parties to whom disclosure may be made; and 4) be signed and dated by the student. The written request may be submitted by fax or scanned email attachment but not solely by email.

When a student authorizes the release of information, as described above, the University of South Dakota will notify the third party that they are not permitted to disclose the information to others without additional written consent of the student.

Names of any other student(s) involved, including a victim or witness, may not be disclosed without written consent of the other student(s). If that consent is not received, names of other students will be redacted from any documents that are released.

Records of deceased students. From the date of death of a student or former student, records previously available only to that student or with the student's consent may, within the first 25 years following the student's death, be released to the following:

1. The personal representative of the student's estate.
2. The parents or next of kin of the student; or
3. Upon the closing of the student's probate estate or two years after the student's death, if no probate estate has been opened, the student's next of kin or the takers of the student's residuary estate under his or her last will or will equivalent.

Following the 25<sup>th</sup> anniversary of the student's death, the records of a student may be released upon good cause shown, in the sole discretion of the school administration.

Any written statement to the contrary by the student prior to death or in the student's last will may supersede the above rules.

At the discretion of the administration, the University may release records 75 years following the creation of the record, if there exists a reasonable presumption of the death of the student. The administration is required to exercise reasonable caution to avoid releasing records of living persons. The administration will redact Social Security numbers, and reserves the right to redact any other information.

**Record of Requests for Disclosure**

When information is requested or released from a file without student consent, a “Record of Request for Disclosures of Student Information” is to be maintained in the file in which the student education records are maintained.

**Directory Information**

The University of South Dakota and any of the colleges or schools of the University of South Dakota may disclose directory information without prior written consent, unless notified to the contrary by the student in writing by the 10th day of classes of the first semester during which the student is enrolled. Nondisclosure stipulations remain in effect until removed in writing by the student, even if the student has withdrawn or graduated. Nondisclosure stipulations do not prevent the university from identifying a student by name or from disclosing an electronic identifier or institutional email address in the classroom.

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### III. DEFINITIONS

For the purposes of this policy, The University of South Dakota uses the following definitions of terms.

**DIRECTORY INFORMATION:** Designated by the University of South Dakota as the following items: student name, address, email, hometown, major field of study, past and present participation in officially recognized activities and sports, enrollment status (undergraduate or graduate, full- or part-time), class, dates of attendance, degree(s) conferred (including dates), honors and awards received (but not scholarships), most recent school(s) attended, weight and height of members of athletic teams, and photograph.

**EDUCATION RECORDS:** Any record (in any medium, including handwriting and email) maintained by the University of South Dakota, a school or college of the University of South Dakota, or an agent of the University of South Dakota which is directly related to a student, except:

1. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.
2. Records maintained by the University Police Department, Student Health Services, Student Counseling Center, Counseling and Family Therapy Center, Psychological Services Center, TRIO Program, and Office of Disability Services, if the records are

maintained solely for the purposes of that department, are revealed only to the person within that department or to other authorized persons as provided by FERPA, and those departments do not have access to education records maintained by the University of South Dakota.

3. Alumni records which contain information about a student after s/he is no longer in attendance at the University of South Dakota and which do not relate to the person as a student.

**LEGITIMATE EDUCATIONAL INTEREST:** A school official is determined to have legitimate educational interest if the information requested is necessary for that official to: a) perform appropriate tasks that are relevant and necessary to the accomplishment of an employment responsibility of the inquirer; b) perform a task related to a student's education; c) perform a task related to the discipline of a student; d) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid. Access to information under this definition does not constitute authorization to share information with a third party without the student's written permission. Questions regarding "legitimate educational interest" should be referred to the Vice President of Academic Affairs, The Associate Vice President of Academic Affairs, the Registrar, or the dean of the school or college in which the student is enrolled. Instances of dispute regarding "legitimate educational interest" will be resolved by the University Registrar.

**PARENT:** A student's birth or adoptive parent, guardian, or an individual acting as a parent in the absence of a parent or guardian.

**SCHOOL OFFICIAL:** A person employed by the University of South Dakota or any school or college of the University of South Dakota in an administrative, supervisory, academic or research, or support staff position; a person serving as a faculty member of the Sanford School of Medicine, paid or not paid; a person serving on an institutional governing body; a student serving on a committee of the University of South Dakota, or a committee of any of the schools or colleges of the University of South Dakota while performing his/her responsibilities as a committee member; a person employed by or under contract to the institution to perform a special task, such as an attorney or an auditor; or a person or organization acting as an official agent of the institution and performing a business function or service on behalf of the institution.

**STUDENT:** Any person, no matter what their age, who attends or has attended the University of South Dakota, beginning on the first day the student begins attending class on any campus of the University of South Dakota, at University Center, or through any distance education offered by the University of South Dakota. This policy does not apply to applicant files or to files of accepted applicants who do not matriculate.

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## IV. PROCEDURES

### Correction of Education Records

Students and parents of dependent students, who have been granted access to student educational records, have the right to request corrections be made to records that they believe are inaccurate, misleading, or in violation of their privacy rights. (Note: The right to request the correction of a student's education record does not include the right to contest a grade received in a course. Grade grievances are addressed by South Dakota Board of Regents Policy 2:9 as implemented through the University of South Dakota Academic Appeals Policy.)

The procedure for the correction of records is as follows:

1. A student must submit a written request to amend a record to the custodian of the record, the office of the dean of the school in which s/he is enrolled or, in the case of an unclassified student, to the University Registrar. The request must identify the part of the record s/he requests changed and specify why s/he believes it is inaccurate, misleading, or in violation of his/her privacy or other rights.
2. Acting on behalf of the University of South Dakota, the record custodian, the dean of the school or college in which the student is enrolled, or the University Registrar may comply with or deny the request. If the request is denied, the office making the determination of denial will notify the student of the decision and advise him/her of his/her right to challenge the decision using the process described in the university's Student Academic Appeals policy. The student may be assisted in the grievance process by one or more individuals, including an attorney, at the student's expense. Students who have ceased attendance or graduated retain the right to a hearing.
3. If the University of South Dakota determines that the challenged information is not inaccurate, misleading, or in violation of the student's right to privacy, it will notify the student that s/he has a right to place in his/her educational record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
4. The statement submitted by the student shall be maintained as part of the student's education record as long as the contested portion is maintained. If the University of South Dakota discloses the contested portion of the record, it must also disclose the student's statement.
5. If the University of South Dakota determines that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will correct the record and notify the student, in writing, that the record has been corrected.

### Record of Requests for Disclosure

A record is not required: a) when the information is released to a school official, to the student, or with the consent of the student; b) for the release of directory information, as specified below; or, c) when required by law not to record the request or disclosure. The record will indicate the name and address of the party making the request and the legitimate interest the party had in requesting or obtaining the information. Records of disclosure and requests for disclosures are considered part of the student's educational records; therefore, they must be

retained as long as the educational records to which they refer are retained by the University of South Dakota or any of its schools, colleges or agents.

### **Annual Notification**

Students will be notified of their FERPA rights annually in the University's *Student Handbook*, produced by the Office of the Dean of Students. The *Student Handbook* is available to all students electronically on the student portal, and is available in hard copy to all students who request it. Students are notified of the availability of the *Handbook* via an all-student email. Notification of FERPA rights will also be available electronically on the Office of the Registrar's web site.

### **Procedure to Inspect Education Records**

Students may inspect and review their education records upon written request to the office of the dean of the school or college in which the student is enrolled, the Office of the University Registrar, or the custodian of the record. The written request must identify as precisely as possible the record or records the student wishes to inspect. Copies of all written requests are to be maintained in the student file in which the requested educational record is maintained. The custodian of the record(s) requested will make the necessary arrangements for access as promptly as possible, but no later than 45 days from the receipt of the request, and notify the student of the time and place that the records may be inspected.

When a record contains information about more than one student, the student may inspect and review only the records that relate to him/her, or a record that has been redacted to protect the privacy of other students.

### **Right of The University of South Dakota to Refuse Access**

The University of South Dakota reserves the right to refuse to permit a student to inspect the following records:

1. The financial statement of the student's parents, if applicable.
2. Letters and statements of recommendation for which the student waived his/her right of access.
3. Records connected with an application to another unit of the University of South Dakota, if that application was denied.
4. Those records which are excluded from the definition of education records, above.

### **Refusal to Provide Copies**

The University of South Dakota reserves the right to deny copies of education records if it would create an unreasonable burden to the University of South Dakota. In that case the student retains the right to review the records personally or through an agent.

### **Fees for Copies of Records**

The fee for copies will be \$.25 per page, and may also include the hourly rate of the employee processing the request. The fee may be waived by the custodian of the record.

### **Types, Locations and Custodians of Education Records**

Many University offices, including each dean's office, school/college, Office of the Registrar, department offices, as well as others, maintain education records. Students should contact the appropriate location for access to their records.

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## **V. RELATED DOCUMENTS, FORMS AND TOOLS**

University of South Dakota Academic Appeals Policy  
(<http://www.usd.edu/policies/upload/Student-Academic-Appeals.pdf>)

University of South Dakota Student Handbook (<http://link.usd.edu/111>)

Confidentiality Request Form ([http://www.usd.edu/registrar/upload/FERPA\\_ConfRequest.pdf](http://www.usd.edu/registrar/upload/FERPA_ConfRequest.pdf))

Student Request to Inspect and Review Education Records  
(<http://www.usd.edu/registrar/upload/request-to-review-records.pdf>)

Release of Information Authorization Form  
(<http://www.usd.edu/registrar/upload/ReleaseInfoForm.pdf>)