

NEOMED ACADEMIC POLICY	Policy No: 3349-AC-245
ACADEMIC POLICY TITLE: Student Record Confidentiality, Access and Disclosure Policy: University FERPA Compliance	EFFECTIVE DATE: October 26, 2018
RESPONSIBLE DEPARTMENT: Office of the Registrar	Approval Authority: VPAA

(A) PURPOSE

Northeast Ohio Medical University (NEOMED or University) fully complies with the Family Educational Rights and Privacy Act (FERPA). FERPA is the federal law that governs release of, and access to, student education records. Each student’s education records, excluding health records, are overseen by the Office of the Registrar. This policy details the guidelines to student record confidentiality as well as access and disclosure both by the student and others, as established by the Office of the Registrar in accordance with FERPA.

(B) SCOPE

This policy is established under the general authority of the Vice President for Academic Affairs, the chief academic officer of the University. Entities affected by the policy are faculty, students, and staff throughout the University who may have access to student Education Records.

(C) DEFINITIONS

- (1) “Directory Information” is information which would not generally be considered harmful or an invasion of privacy if disclosed. This information may be disclosed by the University.
- (2) “Education Record” is any record (in handwriting, print, tape, film, digital or other medium) maintained by the University, an employee of the University or an agent of the University that is directly related to a student. The term “Education Record” does not include:
 - (a) A personal record kept by a faculty or staff member of the University, or agent, that meets the following tests:
 - (i) It was made as a personal memory aid;
 - (ii) It is in the sole possession of the person who made it; and,

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- (iii) The information contained within has never been revealed or made available to any other person except the maker's temporary substitute.
- (b) An employment record used only in relation to an individual's employment by the University.

Student employment records are Education Records when:

- (i) The position in which the student is employed depends on his/her status as a student; or,
- (ii) The student receives a grade or credit based on his/her performance as an employee.
- (c) Records connected with an individual's application for admission to the University prior to his/her actual attendance as an enrolled student.
- (d) Records that relate to an individual as an alumnus after he/she no longer attends or participates in an educational activity for which the University awards a grade or credit.
- (e) Records maintained by the NEOMED security unit that were created by the NEOMED security unit for law enforcement purposes.
- (f) Records maintained by NEOMED student health services used only for the provision of medical or psychiatric treatment. These records will not be maintained with education records and the University will enforce the following conditions:
 - (i) No person other than the physicians, psychiatrists, psychologists or other recognized professionals providing treatment or performing official duties will have access to information contained in the

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health records. However, such records may be disclosed without prior consent if the information is necessary to protect the health or safety of the student or other individuals. A report of any such disclosure will be made to the student as soon as possible.

- (ii) Students may review these records, and they may be reviewed by a physician or other appropriate professional of the student's choice in accordance with the NEOMED Policy on Access to Health Records.
- (3) "Personally-Identifiable Information" is any data for information that relates a record to a student. This includes the student's name, the name of the student's parents or other family members, the student's address, the student's social security number, any other number or symbol that identifies the student, a list of the student's personal characteristics, other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the University community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.
- (4) "Student" is any person who attends or has attended NEOMED and for whom the University maintains an Education Record.

(D) POLICY STATEMENT

- (1) Student Education Records

The following are types of Education Records retained by the Office of the Registrar and is not an all-inclusive list:

- (a) Admissions Records
 - (i) Application forms;

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- (ii) Letters of Recommendation;
 - (iii) Transcripts;
 - (iv) Acceptance Letters; and,
 - (v) Test Scores.
- (b) Academic Records
- (i) Registration materials;
 - (ii) Transcripts;
 - (iii) Remediation Contracts;
 - (iv) Grade Change Forms
 - (v) Course, clerkship, rotation and other assessment grades and scores;
 - (vi) USMLE examination scores;
 - (vii) Letter of Recommendation for elective, etc.;
 - (viii) Correspondence and internal communications related to academic and other matters of concern to the student; and,
 - (ix) Criminal background checks.
- (c) Financial Records
- (i) Free Application for Federal Student Aid (FAFSA) and financial aid applications;

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- (ii) Documentation of federal aid application information; and,
- (iii) Correspondence related to financial records.

(2) Directory Information

(a) Categories

Directory Information may be disclosed by the Colleges and the University at their discretion and for any purpose. The following categories of student information are designated as public or Directory Information:

(i) Category I

Name, address, telephone number, e-mail address, photograph, dates of attendance, class, enrollment status, and electronic personal identifier (e.g., username).

(ii) Category II

Previous institution(s) attended, major field of study, awards, honors and degree(s) and/or diploma(s) conferred (including dates), and residency match results (Medicine students only).

(iii) Category III

Past and present participation in officially recognized activities, date and place of birth, and hometown.

(iv) Category IV

Name(s) of parent(s), spouse and children.

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(b) Withholding Disclosure of Directory Information

- (i) The University assumes that students approve disclosure of Directory Information unless they specifically provide instructions that such information be withheld from disclosure.
- (ii) Students may withhold disclosure of any category of information under FERPA. Forms requesting the withholding of Directory Information are available in the Office of the Registrar or on the Office of the Registrar [website](#). To withhold disclosure, the appropriate section of the registration form must be completed and received in the student services office by September 1st of each new academic year. If a student has previously opted-out of disclosing Directory Information, that opt-out request will remain in effect until rescinded in writing to the University by the student. An opt-out of Directory Information does not prevent the University from identifying a student by name or from disclosing a student’s electronic identifier or Colleges’ email in class.
- (iii) Students must consider very carefully the consequences of any decision to withhold any category of Directory Information. Should a student decide not to release any or all of this Directory Information, any future requests for such information from individuals or organizations not affiliated with the University will be refused. The University will honor a request to withhold any of the categories listed above until the request is rescinded in writing to the University. The University cannot assume responsibility to contact a student for subsequent permission to release the Directory Information. The University will honor the opt-out request made by a former student while in attendance unless the opt-out response has been rescinded by the former student. Regardless of the effect upon the student, the University assumes no liability for honoring students’ instructions that such information be withheld.

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(3) Access to Education Records

(a) Access Rights of Students

All students have the right to access NEOMED policy regarding privacy rights of students and a list of the types of Education Records maintained by the University which are directly related to students and the limitations on access rights as stated in Section C.

All currently registered and former students have the right to review and inspect their Education Records at the University in accordance with these rules. Official student records are those regularly maintained by the University. These include admissions records once the person is a matriculated student, academic records, and financial records prepared and retained by the Office of the Registrar. Students who wish to review their records should make an appointment in advance with the Registrar. The request will be granted within 45 days of receipt as required by federal law. However, NEOMED typically responds to requests for information within 3-5 working days.

All students have the right to a response from the University to any reasonable request for explanations and interpretations concerning the accuracy of their records. Students having questions regarding the content or interpretation of content of their Education Records may make an appointment with the registrar to review their records in an attempt to resolve the questions raised. If the registrar is unable to provide a satisfactory explanation, students will be referred to the individual responsible for submitting the record in question for clarification. If such explanations are still not satisfactory, the procedure described below will be followed.

(i) Waiver of Access Rights

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(a) The University does not require students to waive their right of access to their Education Records, nor is a waiver of access rights a condition for admission to or receipt of financial aid or of any other services or benefits from the University.

(b) Under certain circumstances, however, a student may wish to waive his/her right of access to confidential recommendations and interview reports. A student may do so by signing a waiver form. In this event, the student will be notified of the names of the persons making such recommendations or reports, and the recommendations or reports will be used solely for the purpose for which they are intended. Waiver forms may be obtained from the Office of the Registrar.

(ii) Limitations on Access Rights

FERPA provides for limitations on the right of a student to have access to his/her educational records. Among the specific exclusions are the following:

(a) Financial records of the student's parents and information contained therein; and,

(b) Confidential statements and letters of recommendation placed in a student's file prior to Jan. 1, 1975, provided they are used for the purpose for which they were specifically intended.

All confidential recommendations or interview reports for which the student has requested and signed a waiver of his/her right of access and has been given an opportunity to request to be notified of the names of all persons submitting such documents. In the

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absence of the execution of a waiver, a right of access exists to such documents.

(iii) Challenging Information in Education Record

(a) All students have the right to a hearing to challenge the factual entries in their Education Records. Upon the request of the student involved, a hearing will be conducted within a reasonable time of the request of the student involved. The hearing will be conducted by the Senior Executive Director of Academic Affairs & Student Services, or, if the Senior Executive Director of Academic Affairs & Student Services has a direct interest in the outcome of the hearing, by the Vice Dean or Senior Associate Dean of the respective College. The student will be afforded a full and fair opportunity to challenge the accuracy of any factual entries. The student may be assisted or represented by one or more individuals of the student's choosing and at the student's expense.

(b) The decision, which will include a summary of the evidence and reasons for said decision, will be rendered in writing within one week after conclusion of the hearing. It should be emphasized that this hearing will relate only to whether the student's record is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, with the decision based solely on evidence presented at this hearing. If the hearing is in regard to a grade, the hearing cannot determine whether a higher grade should have been assigned.

(iv) Reviewing and Expunging Records

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- (a) If it is determined that the record in question was inaccurate, the University will take appropriate steps to correct the record. If corrective action is indicated by an informal proceeding, a written request from the faculty member in question will be forwarded to the Office of the Registrar stating that an error was made in the original record and requesting that an appropriate change be made. The registrar will act accordingly upon receipt of this information. If a formal hearing establishes that the record in question contains incorrect information, such findings will be transmitted to the registrar in writing for appropriate corrective action. The student may submit an explanatory statement to the registrar for inclusion in the student file.
- (b) All students have the right to file complaints 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 Act.

(b) Access Rights of Other Personnel

The following personnel may have access to student Education Records upon a showing of a legitimate educational interest:

- (i) Faculty, including the Professional Development Advising Team (PDAT) and academic advisors, College of Medicine community-based faculty who are involved in the teaching and/or oversight of student clinical experiences, not including lab instructors or technicians;
- (ii) Academic administrative officials – including the Vice President for Academic Affairs, Deans, Vice Deans and/or Associate and Assistant Deans; Executive Directors and/or Directors;

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- (iii) Instructional and administrative staff who review assignment and course grades in order to track students' progress;
- (iv) Non-teaching personnel – may have access to student file/data only to extent that they require access to the record for the performance of their duties; and,
- (v) Non-employees performing functions of the Colleges or University. NEOMED periodically uses contractors, consultants, volunteers, etc. to perform services that would normally be provided by employees of the University. These individuals are permitted access to student Education Records upon showing that they have a legitimate educational interest.

(c) Access for Legitimate Educational Interest

Other personnel may be allowed access if they can demonstrate a legitimate educational interest and the inability to otherwise access the information. A legitimate educational interest exists when personnel need to know information in order to:

- (i) Perform their job duties which are a service or benefit to the student such as health care, counseling or financial aid;
- (ii) Appropriately aid students in their education or development;
- (iii) Perform a supervisory or instructional task related to the student's education; and
- (iv) Perform an administrative task related to the student.

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In assessing whether to provide access to information in the file, the registrar will weigh the benefits of sharing the information against any harm that might occur from nondisclosure.

(d) Requests for Access and Record of Disclosure

All requests for disclosures of information contained in a student's Education Record will be submitted to the Office of the Registrar. The registrar will approve or disapprove all such requests for access and disclosures except for requests for directory information. The Office of the Registrar will maintain a record of these actions. This record of requests for and disclosures made from Education Records will be available only to the registrar, the record custodians, the student or to the federal, state or local officials for the purpose of auditing or enforcing the conditions for federally-supported educational programs. The record will include at least:

- (i) The name of the person or agency that made the request;
- (ii) The person's or agency's stated interest in the information;
- (iii) The date the person or agency made the request; and,
- (iv) Whether the request was granted and, if granted, the date access was permitted or the disclosure was made.

The University will maintain this record of disclosures as long as it maintains the student's Education Record.

The University will maintain a record of the disclosures without a separate consent by the student to third parties that are otherwise permitted by law as long as it maintains the student's Education Record.

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The registrar will stipulate that this information will not be disclosed to third parties without a separate consent by the student unless otherwise permitted by law.

(e) Disclosure of Personally Identifiable Information

The University is permitted to disclose Personally Identifiable Information from a student’s Education Record to a person who presents a consent form signed by the student that lists the specific records to be accessed for review, the reasons for such disclosure and the names of the parties to whom such records are to be disclosed may have access to the specific records listed in the consent. In such instances, the student will be given the opportunity to obtain copies of the records to be released.

The University is permitted to disclose Personally Identifiable Information to certain individuals and entities without the student’s consent under the following circumstances:

- (i) Pursuant to a judicial order or pursuant to a lawfully issued subpoena, any court or individual may have access to the student record. In such instances, a reasonable effort will be made to notify the student of the order or subpoena in advance of the compliance therewith.
- (ii) Pursuant to an ex parte court order under the USA Patriot Act, the Attorney General may have access to a student record that is relevant to an investigation or prosecution of an offense listed in 18 U.S.C. 2332b(g)(5)(B) or an act of domestic or international terrorism stated in 18 U.S. C. 2331.
- (iii) Authorized representatives of the following for audit and evaluation of federal and state supported programs: Comptroller General of the United States, the Secretary of Education and

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administrative head of an education agency, or state educational authorities.

- (iv) If the University determines that there is an articulable and significant threat to the health or safety of a student or other individuals, the University may disclose the information from a student's Education Record to appropriate individuals, including parents, whose knowledge of the information is necessary to protect the health and safety of the student or other individuals. Under the regulations, the University must consider the totality of the circumstances of a threat to the safety or health of a student or other individuals when determining access to a student's records. Factors that will be taken into account in evaluating a threat include: the seriousness of the threat to human health or safety, the need for the record to meet the emergency, whether the person to whom the record would be released is in a position to deal with the emergency, and the extent to which time is of the essence.
- (v) Organizations conducting education-related studies for or on behalf of the University, if such studies will not permit the personal identification of students. These records must carry a disclaimer that they must be destroyed when no longer needed for the studies.
- (vi) Accrediting organizations carrying out their accrediting functions.
- (vii) State and local officials or authorities to whom information is specifically required to be reported or disclosed pursuant to the Ohio Revised Code adopted prior to Nov. 19, 1974.
- (viii) The Veterans Administration.

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- (ix) Information received from a state under the Wetterling Act about a student who is required to register as a sex offender in the state.
- (xx) Persons or organizations providing to a student’s financial aid, or determining financial aid decisions concerning eligibility, amount, condition and enforcement of terms of said aid.
- (xi) Officials of another institution where a student seeks to or intends to enroll for purposes related to the student’s enrollment or transfer.
- (xii) Parents of a student who have established that student’s status as a dependent according to Internal Revenue Code of 1986, Section 152.
- (xiii) Parents of a student if the disclosure is in connection with the health and safety of the student or other individuals.
- (xiv) Parents of a student if the student has violated any Federal, State or local law, or any rule or policy of the University, governing the use or possession of alcohol or a controlled substance. In order to release this information to a parent of a student, the University must determine that the student has committed a disciplinary violation regarding the use or possession of alcohol or a controlled substance and the student must be under the age of 21 at the time of the disclosure.

(4) FERPA Compliance Training

- (a) All NEOMED employees who have access to Education Records must complete the University-administered FERPA training on a biennial basis or upon hiring for new employees. The Vice President for Academic Affairs (VPAA) reserves the authority to compile the list of employee positions for which training is required.

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- (b) Failure to complete FERPA training will result in disciplinary action by the Office of the VPAA which may include loss of access to Education Records in Banner and shared drives.