

## UTMB HANDBOOK OF OPERATING PROCEDURES

Section 7	Student Policies	08/06/12 -Originated -Reviewed w/ changes -Reviewed w/o changes -Effective Council of Deans -Author
Subject 7.1	Student Policies	
<b>Policy 7.1.30</b>	<b>Family Educational Rights and Privacy Act (FERPA)</b>	

# Family Educational Rights and Privacy Act (FERPA)

## Definitions

**“Attendance”** includes, but is not limited to, attendance in person, by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom, and the period during which a person is working under a work-study program.

**“Directory information”** means information in a student’s education record that would not generally be considered harmful or an invasion of privacy if disclosed. The term is defined in greater detail below.

**“Disclosure”** means to permit access to, release, transfer, or otherwise communicate personally identifiable information contained in education records by any method (including oral, written, or electronic) to anyone except the party that provided or created the record.

**“Education records”** includes records maintained by UTMB that are directly related to a student. Education records **do not** include:

1. records of instructional, administrative, and educational personnel for their own use and not shown to others;
2. records of the UTMB campus police;
3. student medical and counseling records created, maintained, and used only in connection with providing medical treatment or counseling to the student that are not disclosed to anyone other than the individuals providing the treatment;
4. records created or received by UTMB post-attendance that are not directly related to the person’s attendance as a student;
5. grades on peer-graded papers before they are collected and recorded by an instructor;
6. employment records unrelated to the student's status as a student; or
7. alumni records.

**“Personally identifiable information”** includes, but is not limited to:

1. the student’s name;
2. the name of the student’s parent or other family members;
3. the address of the student or student’s family;
4. a personal identifier, such as the student’s Social Security number, student number, or biometric record (e.g., fingerprints,

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**Definitions,  
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retina and iris patterns, voiceprints, facial characteristics, handwriting, etc.);

5. indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name;
6. other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; and
7. information requested by a person who UTMB reasonably believes knows the identity of the student to whom the education record relates.

**“Student”** means an individual who is or has been in attendance at UTMB. It does not include persons who have been admitted but did not attend UTMB.

**“UTMB official with a legitimate educational interest”** may include a person employed by UTMB in an administrative, supervisory, academic, or support staff position (including law enforcement unit and health staff); a person or company with whom UTMB has a contract or affiliation; a member of the UTMB Board of Regents; or a person assisting another UTMB official in performing his or her tasks who needs to review an education record in order to fulfill his or her professional responsibility.

**Policy**

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Federal and state law provide students with the following rights with respect to their education records:

- to inspect and review;
- to consent to disclosure to third parties, except to the extent that FERPA authorizes disclosure without consent;
- to request amendment to ensure education records are not inaccurate or misleading;
- to be notified of his/her privacy rights under FERPA; and
- to file a complaint with the U.S. Department of Education concerning alleged failures by UTMB to comply with FERPA requirements.

Violation of this policy may result in disciplinary action up to and including termination for employees; a termination of contracting relationship in the case of contractors or consultants; or suspension or expulsion in the case of a student. Additionally, individuals may be subject to loss of access privileges and civil and/or criminal prosecution.

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### **Directory Information**

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Directory information may appear in public documents and may be disclosed without student consent unless a student submits a written request to restrict the information as confidential.

UTMB designates the following information as directory information:

1. student's name (including previous names);
2. campus phone number;
3. campus address;
4. email address;
5. student pictures (if applicable);
6. previous institution(s) attended;
7. major field of study;
8. dates of attendance;
9. degree(s) and date(s) conferred (including degrees from previous institutions);
10. honors and awards;
11. participation in officially recognized activities; and
12. postgraduate training site (for M.D. and Ph.D. graduates).

Students may restrict the disclosure of directory information as confidential (except as may be required by law) by submitting a [Request to Restrict Release of Information](#) form to the Office of Enrollment Services beginning on the first day of registration but no later than the term census date (normally the twelfth class day). Requests to withhold directory information must be submitted at the start of each academic year, as such requests will only be honored by UTMB until the end of the academic year during which it is submitted or until the student ceases to be enrolled or rescinds this request in writing, whichever occurs first.

UTMB may disclose directory information about former students without providing notice. However, UTMB will continue to honor any valid request to restrict the disclosure of directory information made while a student was in attendance unless the student rescinds their request.

### **Annual Notification**

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Students in attendance at UTMB will be notified annually of their rights pursuant to FERPA. Notice will be provided by UTMB on the [Enrollment Services](#) website, in the UTMB General Information Catalog, and in each of the four schools' bulletins.

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**Prior Consent  
Not Required  
before Disclosure**

UTMB will not disclose personally identifiable information from a student's education records without prior written consent of the student, unless prior consent is not required as follows:

**Directory Information**

UTMB may disclose directory information as discussed above.

**UTMB Officials**

UTMB officials with legitimate educational interests in the student's education records are allowed access to student education records.

**Other Institutions**

UTMB may release a student's education records to officials of other educational institutions in which that student seeks or intends to enroll or is enrolled. This release authority may continue after the student has enrolled as long as the purpose of the disclosure is related to the student's transfer or enrollment (e.g., to supplement, update or correct any records sent previously). Education records may also be disclosed to other institutions which administer or participate in joint programs or activities with UTMB.

**Health and Safety**

If UTMB determines an articulable and significant threat exists to the health and safety of a student or others, UTMB may disclose information to any person whose knowledge of the information is necessary to protect the health and safety of the student or other individuals. This includes disclosure to the parents of non-dependent students. UTMB must document in the student's education record the basis for the disclosure and the parties to whom the information was disclosed. *(See Record of Disclosure on page 7.)*

**Audit or evaluation of federal or state education programs**

Authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of Education, and state and local educational authorities may have access to student records in connection with the audit and evaluation of federal or state supported education programs, or in connection with the enforcement of federal laws related to such programs.

**Financial Aid**

UTMB may release a student's education records in connection with that student's application for, or receipt of, financial aid, but only as necessary to determine the student's eligibility for the aid, the amount of the aid,

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before  
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continued**

conditions for the aid, or to enforce the terms and conditions of the aid.

**Parents of Dependents**

Parents of a student who is a dependent for federal tax purposes may have access to that student's education records without prior consent of the student. Parents must provide UTMB with a copy of their most recently filed federal income tax return showing the student as a dependent.

Alternatively, a student may submit to UTMB a signed statement of his or her tax dependency. If a dependent student's parents are divorced, both parents may have access to the student's records, so long as at least one parent claims the student as a dependent.

**State and local officials pursuant to statute concerning juvenile justice**

UTMB may release education records to state and local officials that are authorized by statute to access student education records to effectively serve the student prior to adjudication. The officials and authorities to whom the information is disclosed must certify in writing to UTMB that the information will not be disclosed to any other party, except as provided by state law, without the prior written consent of the parent or student.

**Organizations conducting studies**

UTMB may release education records to organizations conducting studies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction. UTMB must first enter into a written agreement with the recipient organization that (a) specifies the purpose, scope, and duration of the study and the information to be disclosed (which may only be used to meet the purpose of the study as stated in the agreement); (b) requires that the study be conducted in a manner that does not permit the personal identification of students and/or their parents by individuals other than representatives of the organization with legitimate interests in the information; and (c) requires the organization to destroy all personally identifiable information no longer needed for the purposes for which the study was conducted and specifies the time period in which the information must be destroyed.

**Accrediting Organizations**

UTMB may release education records to accrediting organizations in order to carry out their accrediting functions.

**Judicial order or subpoena**

Education records will be released in response to a judicial order or lawfully issued subpoena. UTMB will make reasonable efforts to notify

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the student of an order or subpoena before complying with it so that the student may seek protective action, unless (1) the subpoena is from a federal grand jury or is for law enforcement purposes and the court has ordered that UTMB not disclose the existence or contents of the subpoena or information furnished in response to the subpoena, or (2) the disclosure is to the U.S. Attorney General (or designee not lower than an Assistant Attorney General) in response to an *ex parte* court order concerning an investigation or prosecution of an act of domestic or international terrorism.

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**Disciplinary  
Hearing Results**

**Disclosure to Victims**

UTMB may disclose the final results of a disciplinary proceeding to the victim of an alleged crime of violence or non-forcible sex offense, regardless of whether UTMB concluded a violation was committed.

**Disclosure to Third Parties**

UTMB may disclose the final results of a disciplinary proceeding against a student if the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and is found to have violated UTMB's rules or policies. The disclosure shall include only the student's name, the violation committed, and any sanction imposed by UTMB on that student. Such disclosure may not include the name of any other student (such as a victim or witness) without the written consent of the other student.

**Alcohol and Drug Violations**

UTMB may disclose information to a student's parent regarding the student's violation of a federal, state, or local law, or of any rule or policy of UTMB, governing the use or possession of alcohol or a controlled substance if (a) the student is under the age of 21 at the time of the disclosure, and (b) UTMB determines that the student has committed a disciplinary violation with respect to such use or possession.

**Disclosure to the  
Student**

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Students have the right, upon request to UTMB, to review all materials contained in their education records except:

1. financial records of the student's parents;  
confidential letters and recommendations related to the student's admission to an educational institution, application for employment, or receipt of honors, to which the student has waived his/her rights of inspection and review in a signed writing; and
2. education records containing information about more than one

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**Disclosure to the Student, continued**

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student, in which case UTMB will permit access only to that part of the record pertaining to the inquiring student.

Students who wish to inspect and review their education records may submit a written request identifying the record(s) to the registrar, dean, head of the academic department, or other appropriate UTMB official. UTMB will comply with such requests within 45 days of receiving the request.

Students may have copies of their educational records and this policy. These copies will be made at the student's expense at rates authorized in the Texas Public Information Act. (This does not include official transcripts.) Copies of education records will not be released for students who have a delinquent financial obligation or financial "hold" at UTMB.

**Disclosure with Prior Consent of the Student**

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In all other cases, UTMB will release personally identifiable student information from education records or allow access to those records only with the student's prior consent. Consent must be in writing, signed, and dated, and must specify the records to be disclosed, the party to whom the records may be disclosed, and the purpose of the disclosure.

**Record of Disclosure**

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UTMB will maintain with the student's education records a record of each request and disclosure of personally identifiable information. The record of disclosure documents the third parties who have requested or received the information, and the legitimate interest those parties have in the information. The following disclosures are exempted from this requirement:

- to the student;
- pursuant to the written consent of the student;
- to UTMB officials with legitimate educational interests;
- pursuant to a law enforcement subpoena that the issuing court or law enforcement agency has ordered the existence or contents of, or the information furnished in response to, not be disclosed, or the order is concerning an authorized investigation or prosecution of domestic or international terrorism; or
- directory information.

The record of disclosure may be inspected by the student, the official custodian of the records, and other university and governmental officials.

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### **Requests to Amend Records**

A student who believes that information contained in his/her education records is inaccurate, misleading, or in violation of the student's rights of privacy may submit a written request to amend the records to the Office of the Registrar specifying the document(s) being challenged and the basis for the complaint.

The request will then be sent to the responsible person at the origin of the record in question. If an agreement is reached with respect to the student's request, the appropriate records will be amended. However, if the record is not amended pursuant to the student's request, UTMB will inform the student of its decision and of the student's right to request a formal hearing.

If the student requests a formal hearing, it shall be held within a reasonable time after receiving the request from the student. UTMB will provide the student notice of the date, time, and place reasonably in advance of the hearing, which may be conducted by any individual who does not have a direct interest in the outcome of the hearing. The student will be given a full and fair opportunity to present evidence relevant to the issues raised, and the student may (at his/her own expense) be assisted or represented by one or more individuals of his/her choice, including an attorney.

The outcome of the hearing will be final, and will be based solely on the evidence presented at the hearing. UTMB will provide the student within a reasonable period of time after the hearing a written statement summarizing the evidence and reasons for the decision. If the decision is in favor of the student, the education records will be corrected or amended in accordance with the outcome of the hearing. If the decision is unsatisfactory to the student, the student may place with the education records a statement commenting on the information in the records, or a statement setting forth any reasons for disagreeing with the outcome of the hearing, or both. The statement will be placed in the education records, maintained as part of the student's records, and released whenever the records in question are disclosed. Students who believe the adjudication of their challenge was unfair or not in keeping with the provisions of FERPA may request in writing assistance from the President of UTMB or his/her designee.

### **Complaints**

Complaints regarding alleged violations of the rights accorded students under FERPA may be filed with the Family Policy Compliance Office, US Department of Education, 400 Maryland Ave. SW, Washington, D.C. 20202-5920.



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**References**

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