Introduction

The Family Educational Rights and Privacy Act ("FERPA") is a federal law concerning the privacy of student records and the obligations of educational institutions regarding those records.

Under FERPA, eligible students are afforded certain rights with respect to their records, including:

1. The right to inspect and review the student’s Education Records.
2. The right to request the amendment of portions of the student’s Education Records which the student believes is inaccurate, misleading, or otherwise in violation of the student’s privacy or other rights;
3. The right to consent to disclosures of personally identifiable information contained in the student’s Education Records, except to the extent that FERPA authorizes disclosure without the student's consent.
4. The right to file a complaint with the U.S. Department of Education concerning an alleged failure by a post-secondary institution to comply with the requirements of FERPA.

Annual Notice of FERPA Rights

The State University of New York College of Optometry ("the “College”") will inform current students no less than annually of their rights under FERPA.

Definitions

The following definitions apply to this Policy:

Student: any individual who is or has been in attendance at the College. The term "student" does not include individuals who applied to, but never attended, the College.

Education Records: any record (in handwriting, print, tape, film, computer, or other medium) maintained by the College, or by a party acting on its behalf, which is directly related to a student, except:

1. A personal record kept by a staff member, if the staff member created the record and maintains the record in their sole possession, and the record is not accessible or revealed to any other person except a temporary substitute for the maker of the record;
2. Records created and maintained by the College’s University Police Department for law enforcement purposes;
3. Employment records (unless employment is contingent upon attendance at
the College, e.g., work study), provided the employment record is used only in relation to the individual’s employment;
4. Records made or maintained by an optometrist, physician, psychiatrist, psychologist, social worker, or other recognized professional or paraprofessional if the records are used only for treatment of a student and made available only to those persons providing the treatment;
5. Alumni records which contain information about a student after he or she is no longer in attendance at the College;
6. Financial records of a student’s parents;
7. Thesis or research papers; and
8. Letters of recommendation or reference for which the rights of inspection have been waived.

Education records created in Distance Learning or other remote coursework are protected to the same extent as all other Education Records under FERPA and this Policy.

Directory Information: Information contained in the Education Record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. At the College, Directory Information is defined as:

Student’s name
Home address
Email Address
Telephone number
Major field of study
Participation in officially recognized activities
Dates of attendance
Degrees, honors or awards received
Class year
Student Photograph or digital image
Previous educational institution attended

School Official: A school official is a:

- Person employed by the College in an administrative, supervisory, academic, research, or support staff position;
- Person who is a member of the SUNY Board of Trustees or the College’s College Council;
- Person employed by or under contract with, SUNY or the College to perform a special task, such as an attorney or auditor, or the National Student Clearinghouse;
- Person who is employed by the College’s University Police department;
- Person who is employed by SUNY System Administration;
- Student serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his or her tasks.

**Legitimate Educational Interest:** A school official has a legitimate educational interest if the official requires the information in order to fulfill their professional or contractual responsibilities for the institution.

**Procedure to Inspect Education Records**

Students may inspect and review their Education Records by submitting a written request to the Registrar which identifies as precisely as possible the record(s) to be inspected.

The Registrar or designee will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given in 45 days or less from the date of receipt of the request.

For those records that contain information on more than one student, the requesting student has the right to view only those portions of the record that pertain to their own Education Record.

**Limitation on Right of Access**

The College reserves the right to refuse to permit a student to inspect the following records:

1. The financial statement of the student’s parents;
2. Confidential letters and statements of recommendation placed in the student’s file before January 1, 1975, so long as the letters were only used for the purpose for which they were originally intended;
3. Confidential letters and statements of recommendation placed in the student’s file after January 1, 1975, if: a) the student waived their right to inspect and review those records; b) the College did not require a waiver as a condition for admission to, or receipt of a service or benefit from, the College; and c) and the records are related to the student’s:
   - admission to an educational institution;
   - application for employment; or
   - receipt of an honor or honorary recognition
4. Records connected with an application to attend the College if the application was denied;
5. Records which are excluded from the FERPA definition of “Education Records”.

**Refusal to Provide Copies**

While FERPA generally prohibits an institution from denying access to Education Records, it does permit an institution, under certain circumstances, to deny a
request for copies of records. The College may deny a request for copies of records, not otherwise required to be provided under FERPA, where:

1. The student lives within commuting distance of the College;
2. The student has an unpaid financial obligation to the College;
3. There is an unresolved disciplinary action against the student; or
4. The Education Record requested is an exam, quiz, or set of standardized test questions.

**Fees for Copies of Records**

Official Transcripts: $ 8.00
All other Education Records: $ 0.25/page

**Types and Location of Education Records**

The College maintains the following, general types of Education Records:

Admissions Records
Academic Records
Financial Aid Records
Billing Records
Disciplinary Records

Requests to inspect or review Education Records should be directed to the Registrar at Registrar@sunyopt.edu or by mail to:

Registrar, SUNY College of Optometry
Room 1128
33 West 42nd Street
New York, NY 10036

**Disclosure of Education Records**

The College will disclose information from a student’s Education Records only with the written consent of the student, except that records may be disclosed without the student’s consent when the disclosure is:

1. To school officials who have a legitimate educational interest in the records.
2. To officials of another school where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student’s enrollment or transfer.
3. To certain officials of the U.S. Department of Education, the Comptroller General, and New York state and local educational authorities, in connection with the audit or evaluation of certain state or federally
supported education programs.

4. In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.

5. To organizations conducting certain studies for or on behalf of SUNY or the College.

6. To accrediting organizations to carry out their functions.

7. To parents of an eligible student who is claimed as a dependent for income tax purposes.

8. To comply with a court order or a lawfully issued subpoena.

9. To appropriate officials in connection with a health or safety emergency.

10. To individuals requesting Directory Information as defined by the College.

11. To a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, the institution may disclose the final results of the disciplinary proceeding conducted by the institution with respect to that alleged crime or offense, regardless of whether the institution concluded a violation was committed.

12. To the general public, the final results of a disciplinary proceeding in which the institution determined that a student was the alleged perpetrator of a crime of violence or non-forcible sex offense and that such offense constituted a violation of the institution's rules or policies, if the final result was reached on or after October 7, 1998.

13. To parents of a student regarding the student’s violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21.

14. To the court, those records necessary for an educational institution to proceed with a legal action against a parent or student, or to defend itself in an action against it by a parent or student.

**Record of Requests for Disclosure**

The College will maintain a record of all requests for and/or disclosures of information from a student’s Education Records. The record will indicate the name of the party making the request, any additional party to whom it may be redisclosed, and the legitimate interest the party had in requesting or obtaining the information. The record may be reviewed by the student.

The recordkeeping described above is not required if the request for records was from, or the disclosure was to:

a. the student;
b. a school official determined to have a legitimate educational interest;
c. a party with written consent from the student;
d. a party seeking Directory Information; or
e. a federal grand jury or law enforcement agency pursuant to a subpoena
that by its terms requires nondisclosure.

**Opting Out of the Release of Directory Information**

A student may prevent the release of directory information by contacting the Registrar’s Office at Registrar@sunyopt.edu. Students who choose to restrict access to their Directory Information should be aware that doing so may result in some unintended negative consequences. For example, organizations such as potential employers, scholarship agencies, members of the press, loan agencies, educational organizations and others will not be given access to the student’s Directory Information, and will not be able to contact the student.

Students who choose to opt out must do so on an annual basis. Any opt-out request in place at the time of graduation will carry forward such that the student’s Directory Information will not be released post-graduation without consent or a retraction of the opt-out request. Students may also change their preferences regarding “opting-out” at any time after graduation.

**Correction of Education Records**

Students have the right to ask to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

1. A student must ask the Registrar to amend a record. The student should identify the part of the record to be amended and specify why the student believes it is inaccurate, misleading, or in violation of their privacy rights. Amendments of substantive matters, such as a grade change (when the alleged error in the grade is not a recording or clerical error), are not covered by FERPA and will not be considered by the institution under this procedure.

2. The College may comply with the request or it may decide not to comply:
   a. If the College decides that the information is inaccurate, misleading, or in violation of the student’s right of privacy, it will amend the record and notify the student, in writing, that the record has been amended.
   b. If the College decides that the challenged information is not inaccurate, misleading, or in violation of the student’s right of privacy, it will notify the student, in writing, of the decision, that he or she has a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision, and that the student has a right to request a hearing.
   c. If the student opts to place a statement in the record, the statement will be maintained as a part of the student’s Education Record as long as the contested portion is maintained. If the College discloses the contested portion of the record, it will also disclose the statement.
Requesting a Hearing

A student may request a hearing by submitting a written request to the Registrar. The Registrar will notify the student, within a reasonable time after the request is received, but not more than 30 business days, as to the date, time and place of the hearing. Absent extenuating circumstances, the hearing shall take place within 45 business days of such notice.

Student Rights at the Hearing

1. To have a full and fair opportunity to present information and evidence concerning a clerical or recording error in the Education Record.
2. To have a hearing officer who does not have a direct interest in the outcome of the hearing.
3. To be advised by one or more individuals, including an attorney. Advisors are limited to speaking only to the student during the hearing.
4. To receive, within 30 business days of the conclusion of the hearing, a written decision based solely on the evidence provided at the hearing. The decision will include a summary of evidence and the reasons for the decision.

University Rights and Responsibilities When a Hearing is Requested

1. The hearing shall be conducted by the Vice President for Student Affairs, or designee.
2. The hearing shall not be subject to formal rules of evidence or procedure.
3. To schedule a hearing within 30 business days of receiving the hearing request.
4. To provide evidence to the hearing officer to support the previous determination not to amend the student’s Education Record.

Role of the Hearing Officer

1. To allow the student the opportunity to present evidence relevant to the issues raised. The hearing officer has the right to determine whether the evidence presented is relevant to the record and issue(s) in question.
2. To make a decision solely on the evidence presented at the hearing.
3. To provide the student with a timely written decision, including a summary of the evidence presented and reasons for the decision.
Hearing Outcome

If the hearing officer finds that the record is inaccurate, misleading or otherwise in violation of the privacy rights of the student, the College will amend the record accordingly. The student will be notified in writing of the correction. If the hearing officer finds that the information in the Education Record is not inaccurate, misleading or otherwise in violation of the privacy rights of the student, the University will notify the student of the right to place a statement in the record commenting on the contested portion of the record, or stating why he or she disagrees with the decision not to amend, or both. The College will maintain this statement with the contested portion of the student’s Education Record for as long as the record is maintained. The statement will be disclosed whenever the College is required to disclose the portion of the record to which the statement relates.