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STATE COLLEGES
& UNIVERSITIES

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Date: July 29, 2014

To: College and University Registrars
Chief Academic Affairs Officers

From: Kristine Legler Kaplan
Deputy General Counsel

Gail M. Olson
General Counsel

Subject: NEW FERPA Policy Option: "Limited Directory Data"

This is to advise you of a newly clarified provision that will allow campuses to designate a category of "limited directory data" as part of its campus FERPA Policy. The limited directory data category offers increased flexibility to make certain directory data available only to specific parties for specific purposes, or both, without making such data available to the general public. While each campus is responsible for determining whether to adopt its use, we believe it may be beneficial to both campuses and students.

BACKGROUND

The general rule under the Minnesota Government Data Practices Act (MGDPA) is that all data that are classified as public, including student "directory data," must be available to anyone upon request. Although students have the right to "opt-out" or suppress their directory data, the strict public disclosure rule of the MGDPA has led many schools to limit their definition of directory data to protect student privacy, even though such policies also hamper communications that may be welcome and beneficial to students. Recognizing this problem, the U.S. Department of Education earlier amended FERPA regulations to permit schools to designate "limited directory data" that is available only to certain parties, for specific purposes, or both. Nevertheless, questions remained as to whether state law would allow this approach and earlier this year we sought an advisory opinion from the Minnesota Commissioner of Administration for clarification.

We have now received the advisory opinion, which states that system colleges and universities may, consistent with the Minnesota Government Data Practices Act, implement these new FERPA regulations and designate certain educational data as

“limited directory data.” You may read the Opinion in its entirety at:

<http://www.ipad.state.mn.us/opinions/2014/14009.html>.

USE OF THE LIMITED DIRECTORY DATA CLASSIFICATION

Data to be included as part of the campus’s definition of limited directory data should be selected from the list of directory data options provided in the FERPA regulations:

Directory information includes, but is not limited to, the student's name; address; telephone listing; electronic mail address; photograph; date and place of birth; major field of study; grade level; enrollment status (*e.g.*, undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors, and awards received; and the most recent educational agency or institution attended.

34 CFR § 99.3 (<http://www2.ed.gov/policy/gen/guid/fpco/pdf/ferparegs.pdf>).

Some examples for using the limited directory data classification category include, but are not limited to:

- designating a students’ addresses as limited directory data for access by system universities for marketing transfer opportunities, while making them unavailable to the general public;
- designating student contact information as limited directory data for disclosure to the school’s affiliated foundation;
- designating student worker information (*e.g.*, assignment, pay rate, dates, etc.) as limited directory data to be released by Human Resources to verify employment to potential employers or landlords; and
- other third party disclosures that are not already permitted (or limited) by the FERPA regulations and would not generally be considered to be harmful or an invasion of privacy, for example, designating student photos as limited directory data for use in college or university publications.

Note that social security numbers, unprotected personal identification numbers, or personal demographic data such as race or ethnicity would never be eligible for classification as limited directory data.

NOTICE REQUIRED

In order to implement the limited directory data designation, a college or university must include a notice of this practice in its FERPA Policy and permit students the opportunity to suppress or opt-out in the same manner as other directory data. A college or university could offer students the option of suppressing just the limited directory data if that is administratively feasible.

Attached is sample language that may be used when adding the limited directory data classification to a college or university's FERPA Policy.

Please contact Kris Kaplan, Kristine.kaplan@so.mnscu.edu, 651 201-1749 for assistance on implementing this or other data privacy policies or procedures.

c: Leadership Council
Mike Lopez, Associate Vice Chancellor, Student Affairs

Sample Implementation Language—Campus FERPA Policy

Directory Data and Limited Directory Data

The [*Name of College/University*] designates the following information as directory data:

- Student's name;
- [*List other*]

Because directory data is considered public, the [*College/University*] will release such information to anyone upon request except for the directory data of students who have requested suppression. Students who wish to suppress their directory data must submit a written request by: [*explain campus process*], which will remain in effect until a change is requested in writing. [Optional: *Students who request suppression of their directory data will also be deemed to have requested suppression of their limited directory data. Students may choose to suppress only their limited directory data, as described below.*]

Students who wish to restrict their names should realize that their names will not appear in the commencement bulletin and other [*College/University*] publications. Also, third parties will be denied all of the student's directory data and will be informed that there is no information available about the student's attendance at [*College/University*]. Students who wish to override a suppression request for a specific party or purpose may do so by providing a written authorization to the Registrar's Office [*or describe other process*].

The [*Name of College/University*] designates the following information as *limited* directory data:

- *Identify non-directory information that will be released subject to specific limitations on parties, purposes, or both; for example: [Name of College] second year students' mailing addresses will be disclosed to MnSCU universities for recruitment or marketing communications.*

Students who wish to suppress the disclosure only of their limited directory data may do so by: [*describe process available*].