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## The Family Educational Rights and Privacy Act

Enacted in 1974 by President Gerald Ford

- FERPA, or the Buckley Amendment

Federal law enforced by the Family Policy Compliance Office (FPCO), which is part of the U.S. Department of Education (ED) in Washington D.C.



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# What is FERPA?

## **Governs access to educational information and records by public entities**

- Potential Employers
- Educational Institutions
- Foreign Governments

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# What is FERPA?

## **Designed to:**

- Protect the privacy of education records
- Establish rights of students to inspect and review their education records
- Provide guidelines for the correction of inaccurate or misleading data through formal and informal hearings

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## Student and Parental Rights Under FERPA

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## Students' and Parents' Rights

- Apply to any educational agency and institution, including NSU, that receives funds under any program administered by the ED
- K-12: Student rights are ascribed to the parent
- For FERPA purposes, NSU considers *all* students to be *independent*, regardless of age.
  - Education records are not shared with parents without the student's written consent.

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# Parental Access to NSU Student Records

- Parents have no inherent rights to their child's records
  - Treated the same as any external party
- Affidavits of parental claims and records of student permission are maintained by Enrollment Processing Services (EPS) in the ImageDirector system
  - ADMIT and SFSR Databases
    - Document Type 'ROI'

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## FERPA Rights at the Postsecondary Level

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## Postsecondary Level FERPA Rights

- Pertain to *all* enrolled students
  - Continuing Education students
  - Students auditing classes
  - Distance education students
  - Former students for whom an institution maintains an education record, or personally identifiable information
- Although the federal definition does not include admission records of an individual who has never attended class, NSU's policy also protects these records.

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## Primary Student Rights

- NSU students must be permitted to inspect and review their own education records.
- University officials may not release personally identifiable information about students, nor permit inspection of their records without written permission, unless such action is covered by certain exceptions permitted by the act.

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## Our Responsibility

- As NSU employees, we play a crucial role in ensuring that student records are protected from unauthorized access.
  - Protecting a student's privacy is both a legal and ethical requirement of all NSU employees.
- Student records contain highly sensitive information, including family information.
  - Contents are likely to have an impact on the overall educational experience of a student

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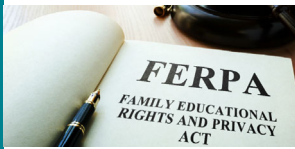
## FERPA Compliance and Consequences

- Students can file formal complaints with the Department of Education.
- NSU can lose federal financial aid funding.
- Students can file lawsuits against the university; and the employee responsible can be held liable.
- Disciplinary action can be taken against YOU, up to - and including - dismissal from employment.

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## Key FERPA Concepts

- Annual notification to students is required
- Written permission is required for disclosure of a student's education record, with certain exceptions
- Students have the right to access their records.
- Staff must have a legitimate educational interest

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## Annual FERPA Notification

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# Annual Notification

## Each Fall, NSU notifies students in attendance of their rights under FERPA

- Right to inspect and review education records
- Right to seek correction of education records student believes to be inaccurate or misleading
- Right to consent to disclosure of personally identifiable information in their education record, with certain exceptions
- Right to file a complaint with the ED

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## Annual Notification *(continued)*

- Procedure to inspect and review records
- A statement that education records may be disclosed without prior written consent, e.g.,
  - School officials with a legitimate educational interest
  - Medical personnel in the event of an emergency
  - Law enforcement personnel
  - Agents working on behalf of the university

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## Key FERPA Terms

- Education Record
- Personally Identifiable Information
- Directory Information
- School Official

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## “Education Record” Defined

### Education Record

Any information related to a student and maintained by the institution, or a party acting on behalf of the institution

- Can contain a student’s name(s), or any other information by which an individual student can be personally identified

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## “Education Record” Defined

**Record**, means any information maintained in any way, including, but not limited to:

- Handwritten
- Print
- Video or audio tape
- Computer media
- Canvas communications and chats
- Notes in any information system kept by NSU, including Recruit, Banner, and Navigate

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## “Education Record”

Which items are considered education records?

- a) Financial aid records
- b) A computer-generated list of library books checked out by a student
- c) A printout of what a student has purchased from the NSU Bookstore with their SharkCard
- d) A list of websites the student has accessed
- e) All of the above

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## What is *Not* an Education Record?

**Exceptions** include:

- Records created and maintained by a law enforcement unit for a law enforcement purpose
- Employment records (unless contingent upon attendance,
- Medical records made and maintained in the course of treatment, and disclosed only to those individuals providing treatment (HIPAA protections)
- Sole possession notes

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# Sole Possession Notes Defined

## Sole Possession Notes

- Made by one person as an individual observation or recollection, are kept in the possession of the maker, and are only shared with a temporary substitute
- Notes taken in conjunction with any other person are not sole possession notes (counselors notes, or notes from an interview)

**Note:** *While sole possession notes are not subject to review under FERPA, they are potentially discoverable with a legal subpoena.*

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# Sole Possession Notes Defined

## Sole Possession Notes

- Sharing these notes with another person, or placing them in an area where they can be viewed by others makes them “education records” subject to FERPA!
- Emails are *never* considered sole possession

*If you don't want it reviewed, don't write it down!*

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# “Personally Identifiable Information” Defined

## Personally Identifiable Information

Data or information that, if released, would compromise the student’s privacy, and make their identity known with “reasonable certainty”

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# Personally Identifiable Information

## May Include

- Student’s name, the names of the student’s parents or other family members
- Student’s address, or that of the student’s family
- Personal identifiers (social security or NSU I.D. number)
- Indirect identifiers (date or place of birth, mother’s maiden name)
- List of personal characteristics or other information that would make the student’s identity known with “reasonable certainty”

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## FERPA Record Protection

Which of these records are *not* protected under FERPA?

- a) Records that contain personally identifiable information about a student, but are only in Banner
- b) All paper records that contain personally identifiable information about a student
- c) Personal faculty and staff records about a student, which are not shared with others, and are not placed in the student's file

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## Directory Information

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## Directory Information

- Information about a student that would not generally be considered harmful or an invasion of privacy, if disclosed
- Through annual email notification, NSU students are alerted of items considered to be directory information.
  - These are also listed on the university's website and in the annual FERPA notice.
- Students must be given the opportunity to withhold disclosure of directory information.
  - Only applies to directory information

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## Directory Information

*NSU does NOT sell  
or distribute mailing lists  
of its students or employees  
to marketers!*

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## How NSU Defines Directory Information

- Student's Name
- Local and Home Addresses/Email Addresses
- Telephone Numbers
- Place of Birth
- Major Field of Study/Enrollment Status
  - (e.g., full- or part-time, undergraduate, graduate, professional)
- Participation in Intercollegiate Sports
- Dates of Attendance
- Degrees, Honors, and Awards Received
- Year in School/Anticipated Graduation Date
- I.D. Photograph

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## Directory Information Can *Never* Include...

- Race
- Gender/Sex
- Partial or Full Social Security Number
- Student I.D. Number
- Grades
- Grade Point Average (GPA)
- Country of Citizenship
- Religion



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## Directory Information

- Directory Information must be defined as such.
- If specific data is not defined as “*directory information*,” then it isn’t directory information.
  - Such data can only be released with the student’s written permission, unless the release falls under one of the FERPA exceptions.

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## Directory Information

- When a student requests Non-Disclosure of Directory Information, a “confidential” indicator is displayed on all pages of the student’s Banner record, as well as on the class list page in SharkLink.

The screenshot shows the Banner system interface for Nova Southeastern University. The top navigation bar includes the university name, a user profile for Mark J. Mako, and a 'Sign Out' button. Below this is a search bar and a 'General Person Identification SPAIDEN 9.3.8 (PROD)' header. The main content area displays a student record for 'Shark Susan' with a 'Confidential' indicator. The record includes fields for ID (NXXXXXXXXX), Address, Telephone, Biographical, E-mail, Emergency Contact, and Additional Identification. A 'Summary Class List' table is also visible, showing two classes: 'Shark, Susan Confidential' and 'Steemer, Stanley'. The table columns include Record, Waitlist Position, Student Name, ID, Reg Status, Level, Credits, Grade Detail, and Notification Expires.

Record	Waitlist Position	Student Name	ID	Reg Status	Level	Credits	Grade Detail	Notification Expires
8	0	Shark, Susan Confidential	NXXXXXXXXX	Web Registration	Bachelors - Traditional Day	3.000		
9	0	Steemer, Stanley	NYYYYYYY	Registered	Bachelors - Traditional Day	3.000		

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## Directory Information

- Impacts of a student’s request to have their Directory Information withheld:
  - Name is not published on Dean’s List
  - Name is not listed in commencement program
  - Verification requests from prospective employers are denied, to the point NSU Attendance cannot be acknowledged
  - Student cannot be spoken with over the phone

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## School Official

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## School Official

- In order for an education record to be disclosed to a faculty member or other school official without prior written consent, the student must annually be informed of:
  - The specification of criteria for determining who is a school official
  - and
  - What constitutes a legitimate educational interest

*These two conditions cannot be separated.*

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## “School Official,” as Defined by NSU

- Employed by the university in an administrative, academic, research or support staff position (including law enforcement personnel, Federal Work-Study (FWS) students, and health staff)
- Contracted by the university (i.e.: attorney, auditor, collection or loan servicing agent, or the National Student Clearinghouse)
- Serving on the Board of Trustees or Board of Governors
- Serving on an official committee (i.e.: disciplinary, grievance), or assisting another school official in performing their tasks.

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## Legitimate Educational Interest

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## “Legitimate Educational Interest” Defined

A demonstrated *need to know* by officials of an institution who act in the student’s educational interest, including faculty, administrators, clerical, and professional employees; and others who manage student record information

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## “Legitimate Educational Interest” Defined

A school official has a legitimate educational interest if they need to review an education record in order to fulfill their professional responsibility.

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## Legitimate Educational Interest

- A faculty or staff member has a legitimate educational interest in accessing or reviewing a student's education record if the faculty or staff member is:
  - Performing a specified task in their position description or contract, and is related to a student's education or student discipline
  - Providing a service or benefit related to the student or student's family
  - Maintaining safety and security on campus

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## Legitimate Educational Interest?

A professor requests a student's file. Under FERPA, which of these scenarios best describe compliance with the law?

- a) Without questioning them, a professor is given the entire student file.
- b) The professor is asked to identify a legitimate educational interest. If identified as such, the professor is given the entire student file.
- c) The professor is asked to identify a legitimate educational interest. If identified as such, the professor is given that portion of the student file that is relevant to the task being performed.

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## Requirements for Compliance

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# Compliance Requirements

## Provide Students Access to Their Education Records

- Students have a right to:
  - Inspect and review within 45 calendar days of the request to inspect
  - Seek an amendment (scrivener's error) of their education records believed to be inaccurate or misleading
  - Request a hearing if the request for amendment is deemed unsatisfactory

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# Compliance Requirements

## Limitations to the Right to Inspect

- Parental financial information
- Confidential letters and recommendations to which the student has waived their right to inspect
- Documents originating from NSU attorneys
- Education records which contain information about more than one student
  - The institution must permit access to the part of the record that pertains only to the inquiring student.

**Note:** Never send an email to one student that contains information about another student!

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# Compliance Procedures

## Disclosure of Education Record Information

- Institutions shall obtain written consent from a student before disclosing any personally identifiable information from the education record (with certain exceptions).

This written consent should:

- Specify the records to be released
- State the purpose of the disclosure
- Identify the party to whom the disclosure may be made
- Be signed and dated by the student

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# Exceptions to Prior Consent

**Institutions *may* disclose education records *without* students' written consent:**

- To school officials with legitimate educational interest (as defined in annual notifications)
- To schools in which a student seeks or intends to enroll
- To federal, state, and local authorities involving an audit or evaluation of compliance with education program
- In connection with financial aid

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## Exceptions to Prior Consent *(continued)*

Institutions *may* disclose education records *without* students' written consent:

- To organizations conducting studies for or on behalf of the educational institution
- To accrediting organizations
- In compliance with a judicial order or subpoena
- To the National Student Clearinghouse

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## Exceptions to Prior Consent *(continued)*

Institutions *may* disclose education records *without* students' written consent for:

- Directory Information
- In a health or safety emergency
- To the student (certain Holds limit access)
- Results of a disciplinary hearing
- Disclosure to parents of students under the age of 21, if the institution determines that the student has committed a violation of its drug or alcohol rules or policies (regardless of the student's dependency status)

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## Protect the Record!

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## Protection of a Student's Record

**Before discussing or releasing any information to a student about their education record:**

- Always verify the student's identity prior to releasing or discussing *any* information.

**Note:** Student grades are *never* released over the telephone.

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## Protection of a Student's Record

If a party other than the student makes a request on their behalf:

- Always access ImageDirector to review the Release of Information Authorization form (ROI) prior to providing any information to a person other than the student.


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The screenshot displays the ImageDirector web application interface. The top navigation bar includes the 'ImageDirector' logo and a search icon. The main heading is 'Find Documents'. On the left, there is a sidebar with 'Applications' listed: 'ADMIT' (9), 'ADMITPKG' (0), and 'SFSR' (0). The main content area shows a search for 'ADMIT' in the 'EPS Admissions Database'. A 'Show Fields' button is visible. Below, a table lists documents with columns for checkboxes, PIDM, BANNER ID, SSN, LAST NAME, FIRST NAME, MIDDLE NAME, and DOC TYPE. The last row is highlighted in red and labeled 'ROI'.

	PIDM	BANNER ID	SSN	LAST NAME	FIRST NAME	MIDDLE NAME	DOC TYPE
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		APP
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		ESAPP
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		RESAPP
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		LOR
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		DL
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		DL
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		OTRAN
<input type="checkbox"/>	*****	N*****X	9573	Shark	Susan		OTRAN
<input type="checkbox"/>	*****	N*****X	9573	Shark	Shark		<b>ROI</b>


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Office of the University Registrar

**A**

ROI



**Authorization for Release of Information**  
in accordance with Family Educational Rights and Privacy Act (FERPA)

Student Name: Shark, Susan NSU ID: NXXXXXXX

I authorize Nova Southeastern University (NSU) to release information as indicated below.

<p><b>Name of Person</b></p> <p>1. <u>Shark, Samantha</u></p> <p><u>(954) 987-6543</u></p> <p>2. <u></u></p>	<p><b>Relationship to Student</b></p> <p><u>Mother</u></p> <p><u>samanthashark@gmail.com</u></p> <p><u></u></p>
--	---

List two individuals on this form ONLY if you intend to grant them the same type of information access. Otherwise, please complete a separate form for each individual.

<p><b>Type of information access</b></p> <p><input checked="" type="checkbox"/> <b>Academic:</b> (incl. but not limited to) grades, grade point average, enrollment level, course selection</p> <p><input checked="" type="checkbox"/> <b>Financial aid:</b> (incl. but not limited to) satisfactory academic progress, Free Application for Federal Student Aid information, award amounts</p> <p><input checked="" type="checkbox"/> <b>Student account:</b> (incl. but not limited to) account balances, account charges, billing, payment</p>	<p><b>Dates of permitted access (if any)</b></p> <p>from: <u>8/15/2022</u> to: <u></u></p> <p>from: <u>8/15/2022</u> to: <u></u></p> <p>from: <u>8/15/2022</u> to: <u></u></p>
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PLEASE NOTE: NSU eBill allows students to authorize others to view their account and pay their bills. For more information on NSU eBill, visit [www.nova.edu/ebill](http://www.nova.edu/ebill).

☐ **Disability-related:** (incl. but not limited to) type of disability, accommodation needs, auxiliary aids

☐ **Disciplinary-related:** (incl. but not limited to) academic disciplinary processes, sanctions

It is the student's responsibility to indicate dates of permitted access. Failure to indicate dates of restriction means the student is granting permanent access. Please note that NSU will not release information past the date of permitted access.

**2. Certification**

I understand that this authorization may be withdrawn by me at any time through submission of a new Authorization for Release of Information Form (after dates of permitted access accordingly.)

Student Signature: Susan Shark Date: 7/15/2022

Mailing Address: 123 Mako Avenue Fin City, Florida 12345

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## European Union General Data Protection Regulation (EUGDPR)

- Goal is to unify data protection laws across the European Union (EU), with expanded reach, improved protection, and regulation that keeps pace with modern technology
- EUGDPR specifies how consumer data is used and protected
- Applies to any organization that controls or processes personal data of EU subjects or U.S. students studying in the EU, regardless of that data's location, or where the processing occurs
- Student data may never be used for marketing purposes

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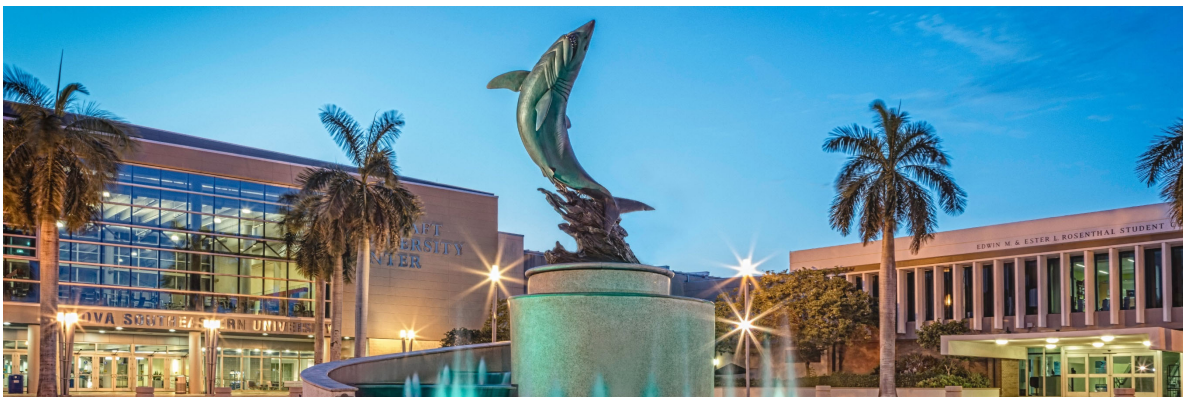
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# Gramm-Leach Bliley Act

- The Gramm-Leach Bliley Act (GLBA) requires various institutions to protect customer financial information.
  - Customer financial information is “any record or document containing nonpublic, personal information about a customer.”
    - Student loan paperwork
    - Student payment plans
    - Collection activity
    - Credit card numbers
    - Other financial information

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## FERPA Fundamentals

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## FERPA Fundamentals

- Generally, faculty and staff may not see a student's education record without first identifying a **legitimate educational interest**, or one of the other exceptions under which records may be reviewed.
- At NSU, parents do not automatically have a right to view their child's postsecondary education records.

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## FERPA Fundamentals *(continued)*

- Most student records kept by the university are considered "education records," and are protected by FERPA.
- The student has the right to access and review their education record.
- All education records are confidential and cannot be disclosed, unless the student consents or the request fits one of the exceptions under FERPA.

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## FERPA Fundamentals *(continued)*

**Note:** If a student record is legally subpoenaed, you may be asked to produce records in your college's possession. Once subpoenaed, these records cannot be destroyed until the case has been released or finalized.

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## NSU Contact Information

### For Additional Information or Questions

Michael Rendon, *University Registrar*  
*Office of the University Registrar*  
*mrendon1@nova.edu*  
(954) 262-7261

Kim Rivera, *Senior Manager, Registrar Operations*  
*Office of the University Registrar*  
*risnear@nova.edu*  
(954) 262-7225

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## NSU FERPA Resources

### **NSU Office of the University Registrar Website**

*[nova.edu/registrar/services/ferpa.html](http://nova.edu/registrar/services/ferpa.html)*

### **FERPA Training: ESS Community Net Website**

*[nova.edu/ess-communitynet/training.html](http://nova.edu/ess-communitynet/training.html)*

### **2022 ESS Informational Summit Website**

*[nova.edu/ess-communitynet/summit/index.html](http://nova.edu/ess-communitynet/summit/index.html)*

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## U.S. Department of Education FERPA Resources

### **Protecting Student Privacy “FERPA 101 For Colleges & Universities”**

*[studentprivacy.ed.gov/training/ferpa-101-colleges-universities](http://studentprivacy.ed.gov/training/ferpa-101-colleges-universities)*

### **“The Family Educational Rights and Privacy Act (FERPA)”**

*[www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html](http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html)*

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