



Albert Einstein College of Medicine

## FERPA Policy

### I. Purpose

Among its several purposes, the Family Educational Rights and Privacy Act of 1974, as amended (Section 438 of the General Educational Provisions Act, 20 USC 1232g) ("FERPA") was enacted to protect the privacy of students' education records, to establish the rights of students to inspect and review their education records, and to provide students with an opportunity to have inaccurate or misleading information in their education records corrected. FERPA also permits the disclosure by an institution without a student's prior consent of so-called directory information about that student. Students have the right to file complaints with the Department of Education's Family Policy Compliance Office concerning alleged failures by an institution to comply with FERPA. In accordance with the statute and the FERPA regulations issued by the Department of Education, Albert Einstein College of Medicine ("Einstein") has adopted the following policies and procedures.

### II. Scope

This policy applies to all students of Einstein. "Student" includes any person with respect to whom Einstein maintains an education record, whether or not that person is currently in attendance. Persons who have not been in attendance are not "students" entitled to review their records. Thus, persons who have applied to and been admitted by Einstein, but who have not yet enrolled at Einstein, are not eligible to review their records. Also, students who, while attending one academic program at Einstein, have applied to another Einstein academic program, are not entitled to review records of the academic program to which they are applying until they have been accepted and are in attendance at that academic program.

### III. Policy

#### III.A. Definition of Educational Records

"Education records" available for review are defined as those records, files, documents, and other materials that contain information directly related to a student and that are maintained by Einstein or by a third party acting for Einstein. The form in which the information is maintained by Einstein does not matter; for example, computerized or electronic files, audio or video tape, photographic images, film, etc., with such information are "education records." This includes communications and documents distributed or received by e-mail, or other similar Einstein systems, which are retained in these systems, either by the sending or receiving party. Under FERPA and its related regulations the following types of Einstein records are not "education records" and are, therefore, not available for student review:

1. Records maintained personally by instructional, supervisory or administrative personnel that are not available to others.
2. Records that relate to an individual who is employed by Einstein and that (a) are made and maintained in the normal course of business, (b) are not available for use for any other purpose, and (c) relate exclusively to the individual in that individual's capacity as an employee. This exception does not apply to records that relate to a student in attendance at Einstein who is employed as a result of his or her status as a student.

3. Records made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional which are created, maintained, and used only in connection with the treatment of a student and that are not available to anyone other than the persons providing such treatment. Such records can be personally reviewed by a physician, psychologist, or other appropriate health professional of the student's choice. (Students who have received treatment from Einstein's health services or counseling office may contact those offices to inquire concerning access to patient information.)
4. Records that contain information relating to an individual who no longer is a student at Einstein and that are not directly related to the individual's attendance as a student, i.e., alumni records.
5. Grades or peer-graded papers before they are collected and recorded by an instructor.

Also, Einstein does not have to permit a student to review education records that are:

1. Financial records of the parents of a student.
2. Confidential letters and statements of recommendation placed in the education records of a student: (a) prior to January 1, 1975, as long as they are used only for the purposes for which they were specifically intended; and (b) after January 1, 1975, if the student has waived access to such letters and recommendations and if such letters and recommendations relate to the student's admission to an educational institution (including admission to Einstein), application for employment, or receipt of an honor or honorary recognition (see section below on "Waivers").
3. Records such as those which may be maintained by Einstein's Office of General Counsel, the confidentiality of which is protected by law.
4. Those portions of the educational record that contain information about other students.

### III.B. Type and Location of Records Kept at Einstein

1. The principal education records of each student are maintained by each academic program's registrar or, if the program does not have a registrar, its program director. The registrar or the program director is responsible for these records. Inquiries concerning these records should be made in writing to the applicable academic program's registrar or program director:
  - a. Medical School: Hayley Erickson, Registrar
  - b. Graduate Division (Graduate Programs I n the Biomedical Sciences): Sheila Cleeton, Registrar
  - c. Medical Scientist Training Program (MSTP): Hayley Erickson for MD records; Sheila Cleeton for PhD records
  - d. Clinical Research Training Program: Aileen P. McGinn, Ph.D., Director
  - e. Bioethics Program: Tia Powell, M.D., Director
  - f. Postdoctoral Program: Anne R. Bresnick, Ph.D., Director
2. In addition to the principal record maintained by the appropriate registrar or program director, certain other offices or persons may maintain records for students, such as: the Deans of the academic programs, admissions, the student's academic department, Student Finance Office (if student has applied for aid), student advisement and counseling offices, course leaders, and/or committees and subcommittees of the academic program. Not all of these categories of records are maintained for any given student, and there may be others. Inquiries concerning these records should be made in writing to the appropriate individual, department or administrative office.
3. Administrative records pertaining to student housing are not kept by Einstein. Rather, such records are kept by the Student Housing Office and are in the charge of the Student Housing Office. Inquiries from students concerning these records should be made in writing to the head of the Student Housing Office.

### III.C. Inspection and Review of Records

1. A student who wishes to review his/her education record or a copy of same must submit to the appropriate office a written request that specifically identifies the records of interest. The student will be provided with this review opportunity within a reasonable time, not to exceed 45 days from the date of receipt of the request by the appropriate office. The student should bring valid photo identification to the appointment.
2. If any material or document in the education record(s) of a student includes information on more than one student, the student may inspect and review or be informed of only that part of the material or document relating to herself or himself.
3. At Einstein's discretion, students may obtain duplicate copies other than Einstein transcripts. A specific form must be submitted in order to obtain this copy. Students will not be permitted to remove the original record(s) from the record review office. At the conclusion of the review, the record(s) is returned to the office that maintains it.
4. If a student is physically unable to come to the appropriate record review office, and if this inability would effectively deny the student access to her or his records, the student may obtain a record request form by calling or writing to the appropriate record review officer. The student should then return the completed request form by mail to the record review officer. The officer will make special arrangements for the review. If applicable, in addition to duplication costs, there may also be a charge for the cost of mailing.

### III.D. Waivers

A student may waive his or her right to access to confidential recommendations for any of the following: admission to an educational institution; employment; receipt of an honor or honorary recognition. Waiver forms are available from each academic program admissions office. The waiver must be in writing and must be signed by the student. If a student waives her or his right to access, the recommendations must be used solely for the purposes for which they were intended, and, if the student so requests, Einstein will give her or him the names of the individuals who made the recommendations. Recommendations mailed to third parties should include a copy of the signed waiver, so that the third party is aware that the student has waived access to the recommendation, and, hence, cannot obtain access to it from the third party's records in the future. Einstein does not have the right to make the student's waiver a condition to the student's receipt of any service or benefit from Einstein. Waivers may be revoked by the student, but the revocation will not enable the student to gain access to confidential recommendations made while the waiver was in effect.

### III.E. Correction of Records

1. If after inspecting and reviewing their academic records, the student believes that any information contained in them is inaccurate, misleading or violates their privacy or other rights, the student may request in writing that the office which contains those records amend them. The request should clearly identify the part of the records the student wants changed and specify why it should be changed. There is no obligation on the part of Einstein to grant such a request.
2. That office must reach a decision and inform the students making such requests of the decision in writing, within a reasonable period of time.
3. If the office refuses to amend the record in accordance with a student's request, the student has the right to a hearing.
4. This hearing will be conducted by a committee appointed by the Executive Dean, consisting of persons who do not have a direct interest in the outcome of the hearing.
5. The hearing will be held within a reasonable period of time after the student has made the request and the student will be given notice of the date, place, and time, reasonably in advance of the hearing.

6. The student will be afforded a full and fair opportunity to present evidence relevant to the issue raised and may be assisted or represented by individuals of their own choice at their own expense, including an attorney.
7. The committee will make its decision in writing within a reasonable period of time after the conclusion of the hearing.
8. The decision of the committee will be based solely upon the evidence presented at the hearing and will include a written statement given to all parties concerned, summarizing the decision and reason for the decision.
9. If, as a result of the hearing, the committee supports the complaint of the student, the education records of the student will be amended accordingly, and the student will be so informed.
10. If the committee decides against the student, the student has the right to place in their record a statement commenting on the information in the record and/or stating their reasons for disagreeing with the decision. This explanation will be maintained by Einstein as part of the education records of the student as long as those records are maintained, and whenever a copy of those records are sent to any party, the explanation will accompany them.

### III.F. Disclosure of Information from Records

Prior to disclosing personally identifiable information from a student's education records, Einstein will obtain the student's signed and dated written consent to such disclosure, unless consent is not required by law. The student's written consent must "specify the records that may be disclosed; state the purpose of the disclosure; and identify the party or class of parties to whom the disclosure may be made." In the case of certain offices, such as the career services or pre-professional committees, students can sign a blanket consent for disclosure of specified records to "appropriate third parties." Signed and dated written consent "may include a record and signature in electronic form that identifies and authenticates" the student as the source of the consent and indicates the student's "approval of the information contained in the electronic consent." Such consent is not needed for disclosure of directory information (see Section G below) or for disclosure:

1. to the student.
2. to school officials with legitimate educational interests; school officials having a legitimate educational interest include any Einstein employee acting within the scope of her or his Einstein employment, and any duly appointed faculty, agent or representative of Einstein acting within the scope of his or her appointment.
3. to accrediting, testing, and similar organizations.
4. to parents of dependent students (see section below on "Requests from Parents").
5. to certain federal, state, and local officials and authorities, in each case as specified in Subpart D of the FERPA Regulations, 34 C.F.R. Part 99.
6. in connection with financial aid for which the student has applied or received, under the conditions set forth in the FERPA Regulations.
7. to comply with a subpoena or judicial order, provided that Einstein attempts to notify the student of the order or subpoena before complying with it (unless, in the case of a Federal grand jury subpoena or other subpoena issued for a law enforcement purpose, the subpoena orders that such notification not be made), or to provide information to the Attorney General of the United States or to his designee, without notification to the student, in response to a court order issued in connection with the investigation or prosecution of terrorism crimes as specified in Title 18, U.S. Code, sections 2331 and 2332 (g) (5) (B). Permission is not needed for disclosure to a court when Einstein has initiated legal action against a parent or student or when necessary for Einstein to defend itself when a parent or student has initiated action against it.
8. in an emergency where there is an articulable and significant threat to the health or safety of a student or other individual, to appropriate parties whose knowledge of the information is necessary to protect

the health or safety of the student or other individuals. In such cases, Einstein will maintain a record of the articulable and significant threat which formed the basis for disclosure and the parties to whom the information was disclosed.

9. when forwarding education records to the officials of another institution (a) in which a student seeks or intends to enroll if that institution requests such records, or (b) if the student is enrolled in, or receiving services from, that institution while she or he is attending Einstein, provided that the disclosure is for purposes related to the student's enrollment or transfer. The student's consent is not required for such disclosure, nor is any other notice of the transfer required, although a copy of each record so disclosed will be provided to the student if the student asks for it.
10. of the final results of any Einstein disciplinary proceeding relating to a crime of violence or non-forcible sex offense allegedly perpetrated by an Einstein student to an alleged victim of that crime or offense, regardless of whether or not it is concluded that a violation was committed. The consent of the alleged student perpetrator is not a condition to this disclosure.
11. of the final results of any Einstein disciplinary proceeding reached if it is determined that a student is an alleged perpetrator of a crime of violence or non-forcible sex offense and the student has committed a violation of Einstein's rules or policies with respect to the allegation. The names of other students, including the victim or witnesses, may not be disclosed without their prior written consent.
12. of information concerning registered sex offenders, provided to Einstein under the Wetterling Act, including information made available under State sex offender registration notification programs.
13. to certain educational agencies and institutions conducting studies, provided that the studies are conducted in a manner which will not permit the personal identification of students by individuals other than representatives of the organization and that the information will be destroyed when no longer needed for the purpose for which the study was conducted.

### III.G. Directory Information

FERPA permits and Einstein has designated the following items as "directory information:" student name; dates of attendance; degree and awards received; previous schools attended, dates, and degrees received therein; local and permanent address(es), phone number(s), e-mail address(es); date and place of birth; participation in officially recognized activities; enrollment status (e.g., full-time or part-time); major field of study; academic class level; and student ID number. Einstein may disclose any of these without written request or consent if a student has not specifically restricted its distribution. Currently enrolled students may refuse to permit disclosure of some or all directory information.

To do so, students must submit, within 10 days of registration each semester (fall, spring, summer), to the appropriate registrar or program director's office a completed and signed "Request to Prevent Disclosure of Directory Information Form," available in the appropriate registrar's or program director's office. A new form for non-disclosure must be completed each academic year.

### III.H. Right of Complaint

A student who feels that Einstein is not complying with the requirements of the Family Educational Rights and Privacy Act of 1974, or the regulations issued by the Department of Health, Education and Welfare implementing that Act, may file a complaint in writing with:

Family Policy Compliance Office  
 U.S. Department of Education  
 400 Maryland Ave, SW  
 Washington, D.C. 20202-4605

The full text of the Family Educational Rights and Privacy Act of 1974, as amended, and the full text of the final regulations of the U.S. Department of Education for the implementation of the Act, are available for review at in the Office of the General Counsel.

Copies of this statement are available upon request to the Office of the Registrar. Revisions and clarifications of this statement may be published periodically to conform to the law and Einstein's policies.

Additional Information is available at:

US Department of Education: <http://www2.ed.gov/policy/gen/guid/fpco/ferpa/index.html?src=rn34>

CFR 99: <http://www.ecfr.gov/cgi-bin/text-idx?rgn=div5&node=34:1.1.1.1.33>.

### III.I. Requests from Parents

Occasionally, a parent will request information from a student's education records or a copy of the student's transcript. Under FERPA, institutions are not required to disclose such information to the student's parent but may do so if: (a) there is written consent to the disclosure from the student, or (b) the parent requests the information in writing and provides evidence that the student is his or her dependent under the Internal Revenue Code of 1986.

If the procedure indicated under (b) is followed, Einstein's practice is to ask the parent to establish dependency by providing a copy of her or his latest federal income tax return.

Confidential information on the return may be expunged, provided that the information that remains is sufficient for Einstein to ascertain that the parent has claimed the student as a dependent. Further, it is also the practice of Einstein (except in a health or safety emergency) to inform the student of such a request and of the information requested before deciding whether to provide the requested information to the parent. "Parent" is defined by FERPA as "a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian."

### III.J. Annual Notice

Einstein informs students of the Family Educational Rights and Privacy Act of 1974 (FERPA, as amended) periodically, but no less than once per academic year. This policy is also posted on Einstein's internet and intranet websites.

## IV. Definitions

None.

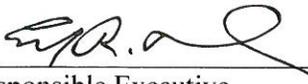
## V. Effective Date

Effective as of: 18 April 2018

## VI. Policy Management and Responsibilities

The Responsible Office under this policy is the Office of General Counsel. The Responsible Executive and the Responsible Officer under this policy are respectively, the College's Dean and the Senior Counsel.

## VII. Approved (or Revised)

  
 \_\_\_\_\_  
 Responsible Executive

  
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 Date