

**BOARD OF REGENTS
BRIEFING PAPER**

Handbook Revision, Disclosure of Student Education Records and Directory Information

BACKGROUND & POLICY CONTEXT OF ISSUE:

Current Board policy (*Title 4, Chapter 1, Section 28*) provides for the protection and privacy of student education records as required by federal law under the Family Educational Rights and Privacy Act of 1974, 20 USC Sec. 1232g (FERPA). FERPA restricts access to such education records but creates an exception for “school officials” who have legitimate educational interests in accessing them. Further, FERPA requires institutions of higher education to publish their definition of “school official” annually. This revision would add “NSHE System Administration Unit” to the official NSHE definition of “school official,” allowing employees of these units to access educational records necessary for them to perform the duties of their positions.

Due to the nature of work done by persons employed in NSHE System Administration, it is necessary to include these employees in NSHE’s definition of “school official.” Employees within NSHE System Administration regularly collect certain student-level education records, as required for data dashboards, reports and presentations to the Board, in order to support informed decision-making, policy evaluation, planning, and accountability. In order to calculate a variety of the metrics reported in a manner that is inclusive and consistent for all NSHE institutions, it is necessary for system staff to have access to student-level data; however, all reporting is done at the aggregate level with appropriate data security protocols in place.

The proposed revision to *Title 4, Chapter 1, Section 28* clarifies the policy by adding employees of an NSHE System Administration Unit to the definition of “school official.” This proposed clarification brings the *Handbook* into alignment with current practice.

SPECIFIC ACTIONS BEING RECOMMENDED OR REQUESTED:

Revise Title 4, Chapter 1, Section 4 (footnote) to include employees of “NSHE System Administration Units” in the NSHE definition of “school official.”

IMPETUS (WHY NOW?):

Recent inquiries of System Administration requested clarification on data collection protocols. While researching this topic, it became apparent that an update to the definition of “school official” is necessary.

CHECK THE NSHE STRATEGIC PLAN GOAL THAT IS SUPPORTED BY THIS REQUEST:

- Access (Increase participation in post-secondary education)
- Success (Increase student success)
- Close the Achievement Gap (Close the achievement gap among underserved student populations)
- Workforce (Collaboratively address the challenges of the workforce and industry education needs of Nevada)
- Research (Co-develop solutions to the critical issues facing 21st century Nevada and raise the overall research profile)
- Not Applicable to NSHE Strategic Plan Goals

INDICATE HOW THE PROPOSAL SUPPORTS THE SPECIFIC STRATEGIC PLAN GOAL

N/A

BULLET POINTS TO SUPPORT REQUEST/RECOMMENDATION:

As proposed, the policy revision will:

- Add “NSHE System Administration Unit” to the official NSHE definition of “school official”; and
- Ensure NSHE compliance with the Family Educational Rights and Privacy Act of 1974, 20 USC Sec. 1232g.

POTENTIAL ARGUMENTS AGAINST THE REQUEST/RECOMMENDATION:

None have been brought forward.

ALTERNATIVE(S) TO WHAT IS BEING REQUESTED/RECOMMENDED:

None have been brought forward.

RECOMMENDATION FROM THE CHANCELLOR'S OFFICE:

The Chancellor's Office supports the recommended revision to *Title 4, Chapter 1, Section 28*.

10. COMPLIANCE WITH BOARD POLICY:

- Consistent With Current Board Policy: Title # _____ Chapter # _____ Section # _____
- Amends Current Board Policy: Title #4 Chapter #1 Section #28
- Amends Current Procedures & Guidelines Manual: Chapter # _____ Section # _____
- Other: _____
- Fiscal Impact: Yes _____ No X
Explain: _____

POLICY PROPOSAL - HANDBOOK
TITLE 4, CHAPTER 1, SECTION 28

Disclosure of Student Education Records and Directory Information

Additions appear in *boldface italics*; deletions are [~~stricken~~ and bracketed]

Section 28. Disclosure of Student Education Records and Directory Information.

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student educational records of both current and former students. Each NSHE institution is required to comply fully with the law. The Act makes a distinction between a student's education record and information classified as directory information. FERPA gives parents certain rights with respect to their children's education records. These rights transfer solely to the student when he or she reaches the age of 18 or attends a school beyond the high school level. Students to whom the rights have transferred are defined as "eligible students" in the Act.

1. Education Records. Institutions must have written permission from the parents or eligible student in order to release any personally identifiable information from a student's education record. However, under certain conditions FERPA allows institutions to disclose those records, without consent, to the following parties or under the following conditions:
 - a. School officials¹ with legitimate educational interest²;
 - b. Other schools to which a student is transferring;
 - c. Specified officials for audit or evaluation purposes;
 - d. Appropriate parties in connection with financial aid to a student;
 - e. Organizations conducting certain studies for or on behalf of the institution;
 - f. Accrediting organizations;
 - g. To comply with a judicial order or lawfully issued subpoena, provided that the institution makes a reasonable attempt to notify the student in advance of compliance;
 - h. Appropriate officials in cases of health and safety emergencies; and
 - i. State and local authorities, within a juvenile justice system, pursuant to specific state law.

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¹ The NSHE definition of "school official" is [~~the~~] *an* institution *or NSHE System Administration Unit* in an administrative, supervisory, academic, [~~or~~] research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the institution has contracted as its agent to provide a service instead of using institutional employees or officials (such as an attorney, auditor, or collection agency); a person serving on the Board of Regents; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.^[2]

² For NSHE purposes, a school official is determined to have legitimate educational interest if the information requested is necessary for that official to (a) perform appropriate tasks that are specified in his or her position description or by a contract agreement; (b) perform a task related to a student's education; (c) perform a task related to the discipline of a student; (d) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.