FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

A. Purpose

The Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. Section 1232g and the Texas Public Information Act, *Texas Government Code* Section 552.001 et seq. are respectively a federal and state law that provide for the review and disclosure of student educational records. In accordance with these laws, The University of Texas-Pan American has adopted the following policy. Individuals are informed of their rights under these laws through this policy which is included in the University *Handbook of Operating Procedures* and the *Catalog*. The *Catalog* is available at http://www.utpa.edu/catalog/ and the *Handbook of Operating Procedures* is available at http://www.utpa.edu/hop/.

B. Persons Affected

This policy applies to faculty, staff and students of the University.

C. Policy

The policy of the University is:

1. Disclosure

   a. The University will not permit access to or the release of personally identifiable information contained in student education records without the written consent of the student to any party, except as follows:

      i. to appropriate University officials who require access to educational records in order to perform their legitimate educational duties;

      ii. to officials of other schools in which a students seeks or intends to enroll, is enrolled in or receives services from, upon request of these officials, and upon the condition that the annual notification includes a notice that the University may forward education records to other institutions that have requested the records and in which the student seeks or intends to enroll;

      iii. to federal, state, or local officials or agencies authorized by law;

      iv. in connection with a student's application for, or receipt of financial aid;

      v. to accrediting organizations or organizations conducting educational studies, provided that these organizations do not release personally identifiable data

and destroy such data when it is no longer needed for the purpose it was obtained;

vi. to the parents of a dependent student as defined in section 152 of the Internal Revenue Code of 1954. This is for financial and financial aid records only and does not include academic records.

vii. in compliance with a judicial order, or subpoena provided a reasonable effort is made to notify the student in advance unless such subpoena specifically directs the University not to disclose the existence of a subpoena;

viii. in an emergency situation if the information is necessary to protect the health or safety of students or other persons;

ix. to an alleged victim of any crime of violence, the results of the alleged perpetrator's disciplinary proceeding may be released.

b. **The University will release information in student education records to appropriate University or University of Texas System officials as indicated in subsection C.1.a above when there is a legitimate educational interest.** A school official is a person employed by the University 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 University has contracted (such as an attorney, auditor, or collection agent); or a student serving on an official committee, or assisting another school official in performing his or her tasks. A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility. Upon request, the University discloses education records without consent to officials of another school in which a student seeks or intends to enroll.

Where required by regulations, a record of requests for disclosure and such disclosure of personally identifiable information from student education records shall be maintained by the University records custodian for each student and will also be made available for inspection pursuant to this policy.

If the University discovers that a third party who has received student records from the University has released or failed to destroy such records in violation of this policy, future access by that third party may be prohibited and the University may take further appropriate action. Respective records no longer subject to audit nor

presently under request for access may be purged according to regular schedules.

c. At its discretion the University may release directory information which shall include:

i. name, address, telephone number

ii. date and place of birth

iii. major field of study

iv. participation in officially recognized activities and sports

v. dates of attendance

vi. most recent previous educational institution attended

vii. classification

viii. degrees and awards received

ix. date of graduation

x. physical factors (height and weight) of athletes

xi. photographs

xii. University e-mail address

Students may have any or all directory information withheld by notifying the Office of the Registrar in writing. Requests for non-disclosure will be honored by the University until such time that the student grants permission, in writing, to release the information.

2. Access to File

Upon written request, the University shall provide a student with access to his or her educational records. The Vice President for Business Affairs has been designated by the institution to coordinate the inspection and review procedures for student education records, which include admissions files, academic files, and financial files. Students wishing to review their education records must make written requests to the Vice

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President for Business Affairs listing the item or items of interest. Education records covered by the Act will be made available within forty-five days of the request.

A list of education records and those officials responsible for the records shall be maintained at the Office of the Vice President for Business Affairs. This list includes:

a. Academic Records:

Office of Admissions	SS 3.104
New Student Services	SS 1.109
Office of the Registrar	SS 1.150
College, Division, Department, and Faculty Offices	Various locations on campus

b. Enrollment and Student Services/Student Services Records:

Learning Assistance Center (LAC)	100
Career Placement Services	SS 2.101

c. Financial Records (which are part of Educational records):

Business Office, Vice President for Business Affairs	SS 5.101

d. Educational records do not include:

i. financial records of the students' parents or guardian;

ii. confidential letters and recommendations which were placed in the educational records prior to January 1, 1975;

iii. records of instructional, administrative, and educational personnel which are kept in the sole possession of the maker and are not accessible or revealed to any other individual except a temporary substitute for the maker;

iv. records of law enforcement units;

v. employment records related exclusively to an individual's employment capacity;

vi. medical and psychological records;

vii. thesis or research papers; or

viii. records that only contain information about an individual after the individual is no longer a student at the institution.

3. Challenge to Record

Students may challenge the accuracy of their educational records. Students who believe that their education records contain information that is inaccurate or misleading, or is otherwise in violation of their privacy may discuss their problems informally with the department that generated the record in dispute. If an agreement is reached with respect to the student's request, the appropriate records will be amended.

If an agreement is not reached, the student will be notified within a reasonable period of time that the records will not be amended; and will be informed by the head of that department of their right to a formal hearing.

Students' requests for a formal hearing must be made in writing to the Vice President for Business Affairs who, within a reasonable period of time after receiving such requests, will inform students of the date, place and the time of the hearing. Students may present evidence relevant to the issues raised and may be assisted or represented at the hearings by one or more persons of their choice, including attorneys, at the student's expense. The hearing officer that will adjudicate such challenges will be appointed by the Vice President for Business Affairs in non-academic matters and by the Provost/Vice President for Academic Affairs in academic matters.

Decisions of the hearing officer will be final, will be based solely on the evidence presented at the hearing, will consist of the written statements summarizing the evidence and stating the reasons for the decisions, and will be delivered to all parties concerned.

The education records will be corrected or amended in accordance with the decision of the hearing officer, if the decision is in favor of the student. If the decision is unsatisfactory to the student, the student may place with the education records statements commenting on the information in the records or statements setting forth any reasons for disagreeing with the decision of the hearing officer, or both.

The statements will be placed in the education records, maintained as part of the

student's records, and released whenever the records in question are disclosed.

Students who believe that the adjudications of their challenges were unfair, or not in keeping with the provisions of the Act may request in writing, assistance from the President of the University.

4. Copies

Students may have copies of their educational records and this policy. These copies will be made at the student's expense at rates authorized in the Texas Public Information Act. Official copies of academic records or transcripts will not be released for students who have a delinquent financial obligation or financial "hold" at the University.

5. Complaints

Complaints regarding alleged failures to comply with the provisions of the FERPA may be submitted in writing to the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue SW, Washington D.C. 20202-4605.

D. <u>Definitions</u>

1. *Directory Information*. Information contained in an education record of a student that generally would not be considered harmful or an invasion of privacy.

2. *Disclosure*. To permit access to, or the release, transfer, or other communication of personally identifiable information contained in education records to any party by any means, including oral, written, or electronic.

3. *Personally Identifiable*. Data or information which include: (1) the name of the student,

the student's parent, or other family members; (2) the student's address; (3) a personal identifier such as Social Security number or student identification number; or (4) a list of personal characteristics or other information which would make the student's identity easily traceable.

4. *Educational Records.* For the purpose of this Section, the term *educational records* means, except as may be provided otherwise in subsection C.2.d, those records, files, documents, and other materials which:

   a. contain information directly related to a student; and

b. are maintained by an educational agency or institution or by a person acting for such agency or institution.

E. Responsibilities

Not applicable.

F. Procedures

Not applicable.

G. Review

The Divisional Head for this policy is the Vice President for Enrollment and Student Services and this policy shall be reviewed every five years or sooner if necessary by the following Stakeholders:

1. University Registrar – Senior Reviewer
2. Records Retention Coordinator
3. Academic Affairs Executive Team
4. Director Student Financial Services
5. Director of Counseling Services
6. Council of Deans
7. Faculty Senate Chair
8. Staff Senate Chair
9. Student Government Association President