



# New York Law School Annual Notification of Rights Under FERPA

## Section 1: Introduction

The Family Educational Rights and Privacy Act of 1974 (FERPA)<sup>1</sup> was enacted to protect the privacy of student 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 permits the disclosure by an institution of certain education records under the circumstances described in this Notification. 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 FERPA, New York Law School (sometimes referred to as "the Law School," "the School," or "NYLS") has adopted the following policies and procedures, which are intended to provide our students and staff with a summary of their respective rights, obligations, and prerogatives under FERPA.

These policies and procedures will be made available at the beginning of each academic year, and continually posted on NYLS's website. Copies can be requested at any time from the Office of the Registrar or General Counsel. The Law School has made accommodations for students who are visually impaired in reviewing these policies and procedures.

## Section 2: Students' Rights Under FERPA

The rights of students under FERPA include:

### **A. The right to inspect and review the student's education records within 45 days of the day NYLS receives a request for access.**

A student should submit to the registrar a written request that identifies the record(s) the student wishes to inspect. The Student Request for Inspection and Review Form is attached as Appendix B. The registrar will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the registrar, the registrar will advise the student of the correct official to whom the request has been directed. If the records in question are of a type that the School is not required to make available for inspection and review (e.g., financial records of the student's parent(s), and letters of recommendation with respect to which the student has waived the right of access), the registrar will so advise the student.

The right to inspection and review does not obligate NYLS to provide students with copies of records.

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<sup>1</sup> Codified at 20 USC § 1232g; enacting regulations issued by the United States Department of Education are codified at 34 CFR § 99.

**B. The right to request the amendment of the student's education records that the student believes are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.**

A student who wishes to ask NYLS to amend a record—because the student believes the record contains information that is inaccurate, misleading, or in violation of the student's right to privacy—should write the registrar, clearly identify the part of the record the student wants changed, and state with as much specificity as possible why it should be changed. If NYLS decides not to amend the record as requested, the School will notify the student in writing of the decision and of the student's right to an administrative hearing regarding the request for amendment. A student may not use the FERPA amendment process to challenge grades.

**C. The right to provide written consent before NYLS discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.**

See Appendix C for the Student Consent to Disclosure Form.

**D. The right to file a complaint with the U.S. Department of Education concerning alleged failures by NYLS to comply with the requirements of FERPA.**

Students are encouraged to contact the registrar with questions or concerns about FERPA. Students also have the right to contact the Student Privacy Policy Office, U.S. Department of Education, 400 Maryland Ave., S.W. Washington, D.C. 20202-4605, with any complaints about NYLS's compliance with the Act.

### Section 3: Permissible Disclosures

FERPA permits NYLS to disclose personally identifiable information from a student's education records with a student's prior written consent; or without a student's prior written consent under various enumerated exceptions, as summarized below.

**A. With a Student's Prior Consent**

In general, NYLS may, within its discretion, disclose education records—or information from education records—only to the relevant student unless the School first has obtained a signed and dated written consent from the relevant student, specifying the records that may be disclosed, the purpose of the disclosure, and the persons or classes of persons to whom disclosure may be made. See Appendix C for the Student Consent to Disclosure Form.

**B. Without a Student's Prior Consent**

NYLS may, also within its discretion, disclose education records—or information from education records, without the consent of the relevant student(s), under the following circumstances:

1. Directory information

FERPA regulations distinguish between "directory" or "non-directory" information. Directory information is that contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. The School considers the following to be directory information and may, in its discretion, disclose it without a student's written consent:

- Name
- Local address
- Degree(s) sought – J.D., LL.M., M.A., Certificate, etc.
- Degrees conferred
- Dates of attendance
- Awards and honors (like those, for example, that are listed in graduation programs and other school publications)
- Participation in school activities (e.g., student organizations, moot court, law review, etc.).

The School also considers the following to be directory information, but generally will not release it unless: (1) required to do so by law; (2) there are circumstances warranting disclosure at NYLS's discretion; or (3) with the student's written consent:

- NYLS email address
- Full- or part-time enrollment status and class level (i.e., 1L, 2L, 3E, etc.)
- Most recent previous institution attended
- Expected date of completion of degree requirements and graduation
- ID photograph—posted internally only.

NYLS does not disclose or confirm directory information about a student without consent if that directory information uses non-directory information (including social security numbers) to identify either the student or the records from which the directory information is determined.

A student may request to limit disclosure of their directory information. Such request must be made within 14 calendar days of the first day of the student's first semester at the School. Non-disclosure by a student is in effect from the date the registrar receives from the student a request in writing until the request is rescinded in writing by the student. Notice can be given by completing a Student Request for Non-Disclosure Form, see Appendix D. Please note that the opt-out right cannot be used to prevent NYLS from disclosing or requiring the student to disclose their own name, identifier, or institutional email address in a class in which the student is enrolled.

## 2. To NYLS officials with legitimate educational interests

"School officials" are those members of an institution who act in the student's educational interest within the limitations of such officials' "need to know." School officials may include:

- a person employed by NYLS in an administrative, academic, or research or support position;
- a person serving on the Board of Trustees;
- a person serving on an institutional governing body of NYLS;
- a person used by, employed by or under contract to NYLS to perform a special task (e.g., an attorney or auditor, outside consultant, external clinic or internship administrators);
- a person or organization acting as an official agent of the institution and performing a business function or service on behalf of the institution;
- a student conducting NYLS business (e.g., serving on an official committee, working for NYLS, or assisting another school official in fulfilling his or her professional responsibility); and
- any other person determined by the Office of the Registrar, the Associate Dean for Academic Affairs and Student Engagement, the General Counsel, or the Dean of NYLS to have a need to know the information in order to perform his or her administrative tasks, to provide a service or benefit for a student, or to fulfill a legitimate educational interest of NYLS.

A school official is determined to have "a legitimate educational interest" if the information requested is necessary for that official to: (a) perform appropriate tasks that are reasonably necessary based on their position or duties; (b) perform a task related to a student's education; (c) perform a task related to the discipline of a student; or (d) provide a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid.

3. To another educational institution where the student seeks or intends to enroll, or where the student is already enrolled so long as the disclosure is for purposes related to the student's enrollment or transfer
4. To the student(s) themselves
5. To a parent of a student who is considered the parent's "dependent" for federal tax purposes

In order for a parent to receive education records, NYLS must obtain either a copy of the portion of the parent's most recent tax return on which dependents are listed, (parents may redact financial information) or a written acknowledgment from the student that the student is, in fact, the parent's dependent.

6. In connection with a health or safety emergency

Such disclosures may be made only to appropriate parties (including but not limited to law enforcement personnel), and are limited to information that is necessary to protect the health or safety of the student or other individuals. NYLS has considerable latitude to determine what situations constitute "emergencies," what information is necessary to disclose and to whom.

7. To comply with a judicial order or lawfully issued subpoena

Prior to complying with a judicial order or subpoena, NYLS generally must make a reasonable effort to notify the student of the order or subpoena, so that the student may seek protective action. The School generally may not give such advance notice in the case of grand jury or other law enforcement subpoenas, in cases where the court or issuing agency has ordered that the existence or contents of the subpoena or information furnished in response not be disclosed, or in the case of *ex parte* court orders pursuant to the USA PATRIOT Act.

8. To a court in the context of a lawsuit that the student brought against NYLS or that the School brought against the student

The School is limited to disclosing information that is "relevant" to the action and that does not relate to other students who are not adversary parties in the lawsuit. The School need not provide the student-party advance notice of such a disclosure.

9. To parents of a student who is under the age of 21 at the time of the disclosure and the disclosure relates to a determination by NYLS that the student has violated the School's drug or alcohol policies

10. The "final results" of a disciplinary proceeding against a student whom NYLS has determined violated an institutional rule or policy in connection with alleged acts that would, if proven, also constitute a "crime of violence or non-forcible sex offense"

"Final results" in this context are limited to the name of the student, the basic nature of the violation the student was found to have committed, and a description and the duration of any sanction the institution has imposed against the student. The School will not disclose personally identifiable information regarding any other students involved in the incident in question.

11. To a victim of an alleged perpetrator of a crime of violence or non-forcible sex offense, the "final results" (as defined above) only of an institutional disciplinary proceeding in connection with that alleged crime or offense

12. In connection with financial aid that the student has applied for or received, for the purpose of determining the student's eligibility for, the amount of, or the conditions for the aid, or to enforce the terms and conditions of the aid
13. To authorized representatives of the Comptroller General, Attorney General, Secretary of Education, or state or local educational authorities in connection with an audit of federal- or state-supported education programs or with the enforcement of or compliance with federal legal requirements relating to those programs

Absent consent or a specific federal law to the contrary, information under this exception must be protected so that individuals are not personally identifiable other than to the "authorized representatives," and the information must be destroyed when no longer needed.

14. To accrediting organizations to carry out their accrediting functions
15. To organizations conducting studies for educational institutions to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction

Such studies must be conducted in a manner that prevents personal identification of parents and students by anyone other than representatives of the organizations with a legitimate interest in the information, the information is destroyed or returned to the School when the study is concluded or no longer needed, and the School enters into a written agreement with the organization specifically so limiting its use of the information.

16. The disclosure concerns sex offenders and consists of information provided to the institution pursuant to the Violent Crime Control and Law Enforcement Act of 1994, commonly known as the "Wetterling Act."

## Section 4: Hearings

As noted, a student has the right to request that NYLS amend an education record concerning the student, as described in Section 2.B. Should the School determine not to make the requested amendment, it shall inform the student who made the request of their right to a formal hearing to challenge this determination. The student may request such formal hearing within 30 business days from the date the School informs the student of their right to a hearing. The request must be in writing (see Appendix E) and must be delivered to the Associate Dean for Academic Affairs.

The Associate Dean for Academic Affairs shall within a reasonable time from the date of the request for a hearing notify the student of the date, time and place of the hearing, and shall, within a reasonable time from the date of the request for a hearing either hear the case personally or designate a hearing committee. The committee will include a member of the Office of the Registrar or Office of Academic Affairs (other than the person who denied the request), a faculty member, and a student.

The student may present evidence relevant to the request to amend the education records and may be assisted or represented, at their own expense, at the hearing by one or more persons of their choice, including legal counsel. The person or committee hearing the case shall decide it solely on the basis of the evidence presented at the hearing.

The hearing decision shall be in writing and contain a summary of evidence adduced at the hearing, and reasons for the decision, and shall be issued within a reasonable time following the conclusion of the hearing. If the decision is in favor of the student, the education records will be amended accordingly. If the decision is unsatisfactory to the student, the student may place with the education record a statement commenting on the information in the records or setting forth any reasons for disagreement with the decision. Such statement will be maintained as part of the student's education record and released with the records anytime they are disclosed to third parties.

## Section 5: Key Definitions

**Student** refers to any individual who is or has been in attendance at NYLS. The term does not include applicants, who are accordingly not protected by FERPA unless and until they are admitted and “attend,” thereby becoming “students.”

**Education records** includes those records, files, documents, and other materials that contain information directly related to a student and that are maintained by NYLS or by a third party acting for the Law School. The following are not considered education records under FERPA:

- NYLS security/law enforcement records
- Information that is part of an individual’s personal knowledge
- Records kept in the sole possession of the maker and used as a personal memory aid, which are not accessible or revealed to any other person, except to a temporary substitute
- Medical and psychiatric/psychological treatment records of students, if they are made, maintained, and used only in connection with treatment of the student and disclosed only to individuals providing the treatment
- Alumni records, i.e., records created and maintained about students after they no longer are students and which do not relate to when they were students
- Records regarding employees of NYLS that: (a) are made and maintained in the ordinary course of business; (b) are not available for use for any other purpose; and (c) relate exclusively to the individual in their capacity as an employee; this exception does not apply to NYLS students who are employed by NYLS as a result of their status as a student
- Grades on peer-graded papers before they are collected by an instructor.

**Personally identifiable information** includes, but is not limited to:

- The student’s name;
- The name of the student’s parent or other family members;
- The address of the student or student’s family;
- A personal identifier, such as the student’s social security number, student number, or biometric record;
- Other indirect identifiers, such as the student’s date of birth, place of birth, or mother’s maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student; or
- Information requested by a person who the educational institution reasonably believes knows the identity of the student to whom the education record relates.

## Appendix A: Complete FERPA Statute and Regulations

To access the complete FERPA statute and regulations, click [here](#).

## Appendix B: Student Request for Inspection and Review

### Family Educational Rights and Privacy Act

Submit to: Office of the Registrar

Name: \_\_\_\_\_

Student ID number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

I request to inspect and review the following education records:

I understand that I will be provided with access to the above-requested records within forty-five (45) days of the date of this request.

Student's signature: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix C: Student Consent to Disclosure Form

### Family Educational Rights and Privacy Act

Submit to: Office of the Registrar

Name: \_\_\_\_\_

Student ID number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

I hereby consent to disclosure of the following education records:

The above-specified education records specified above may be disclosed to the following persons or classes of persons:

The purpose of disclosure of the above-specified education records is as follows:

Student's signature: \_\_\_\_\_ Date: \_\_\_\_\_



## Appendix D: Student Request for Non-Disclosure Form

### Family Educational Rights and Privacy Act

Submit to: Office of the Registrar

New York Law School has designated the items listed below as directory information (public information, which would not generally be considered harmful or an invasion of privacy if disclosed). NYLS may, as permitted under FERPA, release or use this information without the student's written consent or approval.

Students have the right to block the release of their directory information without their express written consent. This request can be made at any time by submitting this form, signed, to the Office of the Registrar. This request will be honored until removed, in writing, by the student.

Please note that the opt-out right cannot be used to prevent NYLS from disclosing or requiring the student to disclose his or her own name, identifier, or institutional email address in a class in which the student is enrolled.

Please indicate which directory information item(s) should **not** be released:

Name

Local address

NYLS email address

Degree(s) sought—J.D., LL.M., M.A., Certificate, etc.

Expected date of completion of degree requirements and graduation

Degrees conferred

Awards and honors

Full- or part-time enrollment status and class level (i.e., 1L, 2L, 3L Evening, etc.)

Dates of attendance

Most recent previous institution attended

Participation in officially recognized school activities (e.g., student organizations, moot court, law review, etc.)

ID photograph—posted internally only.

I, \_\_\_\_\_, NYLS ID number \_\_\_\_\_,

direct NYLS to block the release of the directory information items checked above to non-institutional persons or organizations. This block will remain in effect until changed by me in writing.

Date: \_\_\_\_\_

## Appendix E: Student Request for Formal Administrative Hearing

### Family Educational Rights and Privacy Act

Submit to: Office of the Registrar

Name: \_\_\_\_\_

Student ID number: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Email: \_\_\_\_\_

Phone: \_\_\_\_\_

I request a formal hearing concerning correction of what I believe to be inaccurate or misleading information contained in my education records, or information that can be considered an invasion of my privacy.

The following education record(s) is/are being contested:

I am contesting the information because:

I understand that I will be notified in writing of the date, time, place, and procedures for the hearing.

Student's signature: \_\_\_\_\_ Date: \_\_\_\_\_