

16.01.02 Privacy

Revised [November 30, 2022](#)

Next Scheduled Review: November 30, 2027

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Regulation Summary

The Texas A&M University System (system) recognizes that certain information must be maintained in a confidential manner. Members of the system must manage information in compliance with federal and state privacy laws.

Regulation

1. Protected Health Information (PHI)
 - 1.1 Every three years, each member must conduct an assessment to determine if there is any PHI, as defined by the Health Insurance Portability and Accountability Act (HIPAA), being held or transmitted by a unit and/or department.
 - 1.2 If the assessment reveals PHI, the member chief executive officer or designee must designate, in writing, a privacy and security officer(s) to implement all applicable federal and state laws.
 - 1.3 The privacy and security officer(s) will be the contact person(s) for any questions or complaints regarding PHI.
2. The privacy and security officer(s) is responsible for developing, implementing and maintaining the member's privacy program.
3. Members must comply with all federal and state laws relating to the privacy of information.
4. Education Records and Personally Identifiable Information (PII)
 - 4.1 The system is committed to protecting the privacy of education records, as defined by the Family Educational Rights and Privacy Act (FERPA). Each university of the system (academic institution) must implement processes to ensure that all persons and third parties that access or maintain education records on behalf of the academic institution understand their responsibilities with respect to those education records and comply with FERPA.
 - 4.2 All employees of academic institutions who create, access, maintain or disclose education records must complete FERPA training that is appropriate based on the employee's job

duties. Such training must be selected by the academic institution and conducted on a periodic basis to be determined by the academic institution.

- 4.3 Each academic institution must designate an employee (FERPA official) who is responsible for overseeing the academic institution's compliance with FERPA, this regulation, and the academic institution's rule implementing this regulation. The FERPA official must either be the registrar of the academic institution or another qualified employee who works in consultation with the registrar of the academic institution.
- 4.4 Each academic institution must adopt a rule implementing this Section 4. The rule must include, but need not be limited to, the following:
 - (a) the title of the academic institution's designated FERPA official;
 - (b) the frequency of FERPA training for employees who create, access, maintain or disclose education records;
 - (c) the method(s) for distributing the annual notification of FERPA rights to students;
 - (d) the responsible office(s) and process for receiving and responding to student requests to exercise their rights under FERPA;
 - (e) the responsible office(s) and process for disclosing directory information, as defined by FERPA; and
 - (f) the responsible office(s) and process for disclosing education records to third parties.
- 4.5 Each academic institution must annually submit its annual notification of FERPA rights to the Office of General Counsel (OGC) for review and approval as to form and legal sufficiency. The FERPA official at each academic institution is responsible for ensuring that the annual notification of FERPA rights is distributed to students in accordance with FERPA.
- 4.6 Each academic institution must determine the date by which a student is considered to be in attendance for purposes of FERPA. Such date may not be later than the student's first class date at the academic institution.
- 4.7 An academic institution may only disclose personally identifiable information (PII), as defined by FERPA, from a student's education records if it first obtains the student's written consent in accordance with FERPA, or an exception under FERPA permits such disclosure without the student's consent.
- 4.8 FERPA rights belong to the students at academic institutions. An academic institution may disclose a student's education records to the student's parents if it first obtains the student's written consent in accordance with FERPA, or an exception under FERPA permits such disclosure without the student's consent.
- 4.9 The FERPA official at each academic institution is responsible for determining the categories of information that constitute directory information. Directory information may only include information that would not generally be considered harmful or an

invasion of privacy if disclosed, including but not limited to, a student's name, address, telephone number, email address, photograph, major field of study, grade level, enrollment status, dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, degrees, honors, and awards received, and the most recent educational institution attended. Academic institutions are expressly prohibited from designating the following information as directory information: social security numbers, grades, grade point average, race, gender, religion or national origin.

- 4.10 Academic institutions must publicly notify students of the categories of PII that the academic institution has designated as directory information. Academic institutions must also provide students with the opportunity to opt out of the release of their directory information. Academic institutions may, but are not required to, release directory information of students who have not opted out. The FERPA official at each academic institution is responsible for determining whether and to whom the academic institution will release directory information. An academic institution may specify that disclosure of directory information be limited to specific parties and/or for specific purposes in its annual notification of FERPA rights.
- 4.11 Each academic institution must publicly post its process and forms for students to exercise their rights under FERPA, including the rights to inspect and review their education records, amend their education records, and limit the disclosure of their directory information. The FERPA official at each academic institution is responsible for ensuring that the academic institution complies with FERPA and all other applicable federal and state laws in responding to student requests to exercise their rights under FERPA.
- 4.12 An academic institution may permit another member or a third party to access or maintain education records on behalf of the academic institution only as permitted by FERPA. If the academic institution intends to designate another member or a third party as a school official with a legitimate educational interest in the education records, the academic institution must first enter into a written agreement with the other member or third party that protects the privacy and security of the education records in accordance with FERPA.
- 4.13 The FERPA official is responsible for reviewing and approving any research that is conducted by personnel at the academic institution involving education records or students of the academic institution.
- 4.14 The FERPA official is responsible for maintaining a record of requests for access to, and disclosures of, PII from education records as required by FERPA. This record must include a list of any breach of system security or other incident resulting in the unauthorized access, disclosure or use of PII. Academic institutions must retain this record for as long as the underlying education records are retained.

Related Statutes, Policies or Requirements

[Family Educational Rights and Privacy Act \(FERPA\)](#)

[Gramm-Leach-Bliley Act \(GLBA\)](#)

[Health Information Technology for Economic and Clinical Health Act \(HITECH\)](#)

[Health Insurance Portability and Accountability Act \(HIPAA\)](#)

[Texas Business and Commerce Code, Chapter 521](#)

[Texas Government Code, Chapter 2054](#)

[Texas Health and Safety Code, Chapter 181](#)

Member Rule Requirements

A rule is required to supplement this regulation. See Section 4.

Contact Office

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