

# Chapter 12: University Records, Privacy, and Access to Information

## 12.A General Principles

The University of Michigan respects the privacy of its employees. [Bylaw 14.07](#) states that the University will not release sensitive information without the consent of the individual involved unless required to do so by law. Individuals who provide information to the University are expected to provide truthful and timely information and to inform the University of any known inaccuracies in the University's records.

In addition to University policy, several statutes address privacy of and access to University records. These include the Michigan Freedom of Information Act (FOIA), which governs access to all University records. See handbook section 12.B "Freedom of Information Act (FOIA)" i); the Michigan Bullard-Plawewski Employee Right to Know Act, which governs access by employees to their personnel records (see handbook section 12.C Personnel Records i); the federal Family Educational Rights and Privacy Act (FERPA), which governs access to student records (see handbook section 12.D "Student Records/References" i); and [SPG 601.11](#), "Privacy and the Need to Monitor and Access Records."

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## 12.B Freedom of Information Act (FOIA)

As a public institution in the state of Michigan, the University is subject to provisions of the state's Freedom of Information Act (FOIA), MCLA 15.C31 et seq. Under FOIA, "all persons, except those persons incarcerated in state or local correctional facilities, are entitled to full and complete information regarding the affairs of government and the official acts of those who represent them as public officials and public employees...." Consequently, any individual other than a prisoner, or organization has the right to inspect and/or receive copies of public records maintained by the University.

A "public record" is very broadly defined and liberally construed by the courts as any writing prepared, owned, used, in the possession of, or retained by the University in the performance of an official function. A "writing" includes papers, pictures, sound recordings, electronic media, and every other means of recording or retaining meaningful content. It is important for faculty to recognize that the records they keep as part of their University duties are subject to disclosure under FOIA. The law recognizes that in some instances the public interest may be better served by not disclosing information. FOIA provides a number of exemptions ranging from matters of privacy to confidential research-related information. These exemptions are optional, with the exception of the exemption protecting student records (the federal Family Educational Rights and Privacy Act), which is mandatory. The decision to withhold material is made by the University's FOIA officer, if necessary after consultation with other appropriate offices including the Office of the Vice President and General Counsel.

Faculty on the Ann Arbor campus who receive a FOIA request should forward it immediately to the University's FOIA Office. Faculty at UM-Flint and UM-Dearborn should immediately send any FOIA request they receive to the campus FOIA coordinator, who will forward the request to the FOIA office in Ann Arbor for a response.

The University has five business days from receipt of the request to respond, although the FOIA officer can extend the deadline an additional ten business days if necessary. The denial of a request can be appealed to the president of the University and/or reviewed by a circuit court.

For more information, visit the [FOIA website](#) or contact the FOIA Office on the Ann Arbor campus with questions.

## 12.C Personnel Records

Personnel files are maintained for different purposes in various administrative units throughout the University. Personnel files or records are governed by regulations established by the University including bylaw [14.07](#) (discussed in section [12.A "General Principles"](#)) and SPG [201.46](#). SPG 201.46 also defines "personnel record." These policies are designed to protect the privacy of information contained in individual personnel files to the extent permitted by law.

In addition, the Bullard-Plawecki Employee Right to Know Act, MCLA 423.501 et seq., grants to employees the right to inspect their own personnel files. Personnel records are any records identifying an employee that are kept by an employer and are used to determine an employee's qualifications for employment, promotions, transfers, additional compensation, or disciplinary action. There is certain information which the Act does not require be disclosed to an employee including, among other things, employee references that would identify the person making the reference, medical reports and records made or obtained by the University if the reports and records are available to the employee from the doctor or medical facility involved, and personal information concerning someone other than the employee if disclosure would be a clearly unwarranted invasion of the other person's privacy.

Employees may review their own University personnel files located in the Office of Human Resources Records and Information Services (HRRIS) in the presence of a representative from that office. Personnel records maintained by schools, colleges, and other units are also available for inspection as required by law and pursuant to the policy established by the unit.

Another individual's personnel file is available to members of the University community only when it is needed in fulfilling University functions. Records or information from personnel files may be made available to individuals or agencies outside the University only if such action legitimately serves the purpose of the University and the staff member consents or if the University is required by law to release them. (As indicated above, "personnel record" is defined in SPG [201.46](#).)

Requests for information in personnel files from government agencies or other investigatory bodies, or through court order or subpoena should be referred to the Office of the Vice President and General Counsel. As noted in section [12.B "Freedom of Information Act \(FOIA\)"](#) requests for information under the Freedom of Information Act (FOIA) should be referred immediately to the FOIA office. Decisions in the Michigan Court of Appeals and the Michigan Supreme Court have limited the ability of the University to protect information contained in personnel records from disclosure under FOIA. If disclosure of a staff member's files is required through any of these means, the University will make all reasonable efforts to notify the staff member as quickly as possible, unless such notice is prohibited by law.

Information published in the University of Michigan Directory and the online directory called "[MCommunity](#)" is available to any member of the general public. Faculty and staff can elect to withhold their home addresses and home telephone numbers from being published in these directories by contacting the Records and Information Services office, 4073 Wolverine Tower, or on the medical

campus by contacting, Staff Records, Medical Center Employment Office, 300 N18A04. Faculty may obtain copies of the University of Michigan Directory through their academic units.

## 12.D Student Records

Except for certain public information, student records are regarded as confidential and are maintained by the University primarily to benefit students in their educational and professional advancement. Access to student records is governed by the federal Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g, and the regulations under that statute. As required by FERPA, the University has adopted a policy on [Student Rights and Student Records](#).

FERPA applies to records that relate to any current or former student. A “student” is defined as anyone who is or has been in attendance at the University. FERPA does not apply to records containing information gathered after a student has graduated or otherwise left the University. As a general rule, it also does not cover individuals who have applied but were not admitted or who were admitted but did not enroll.

A “record” means any information recorded in any way, including handwritten, print, computer media, video or audio tape, film, photographs, microfilm, or microfiche. There are a number of records relating to students that are not subject to FERPA including records that relate to a student as an employee; records maintained by the Department of Public Safety for law enforcement purposes; medical, psychiatric, and psychological records; and notes prepared by an administrator or faculty member that are used only by that person and are not shared with anyone else.

Generally, FERPA and University policy prohibit disclosing most information contained in student records about a student without his or her written permission. This applies to anyone outside the University, including a student’s parents, or to University employees unless the employee demonstrates a legitimate educational interest consistent with his or her official function for the University and consistent with usual professional and legal practices. FERPA sets forth limited circumstances under which information in a student’s records can be released without the student’s prior written permission. Requests for information from a student record from anyone other than the student or a University employee who has a legitimate educational interest should be directed to the Office of the Registrar. Requests for information from a student record from a University employee should be directed to the office that maintains the student record in question. In such cases, the employee must demonstrate a legitimate educational interest consistent with his or her official function for the University and consistent with usual professional and legal practices. FERPA gives students the right to inspect and obtain a copy of their own records with certain limited exceptions. Many units have designated individuals who handle such requests from students. The website with the University of Michigan Student Rights and Student Records policy (URL above) lists many of the offices that maintain student records. Finally, FERPA provides a mechanism for a student to challenge and respond to information contained in his or her student records.

Anyone having access to student records, including faculty, is expected to be familiar with and observe the University’s policy on student records. The Office of the Vice President and General Counsel can assist with questions regarding FERPA.

## 12.E Faculty Handling of Student Records/References

FERPA directly affects faculty in their handling of information related to students. For instance, FERPA prohibits the posting of grades by the student's name or the student's ID number. Grades can be posted by using randomly assigned numbers known only by the faculty and the individual student or by using the last four digits of the student ID numbers in such a way that individual privacy is protected (e.g., not listing the students in alphabetical order). In addition, test, papers, and other materials must be returned to the students in a way that prevents access and/or release to anyone other than the student.

Faculty provide an important service for students when they write letters of recommendation on request by the student. In writing these letters, however, faculty members should take care to provide information based on personal observation or knowledge. In addition, faculty should not respond to a third party's request for a reference for a student without that student's prior consent. The Career Center publishes a guidebook for faculty, Graduate Student Instructors, and staff, that provides additional information. It is entitled [Guidelines for Writing Letters of Reference](#), and is available at no cost from that office or their website.

## 12.F Faculty Record Keeping

The University strongly encourages all faculty and staff to be diligent in creating and maintaining records related to their University functions. Information kept in University files should be as accurate as reasonably possible and directly relevant to a legitimate University purpose. Questions about what to keep in a file and how long to keep it can be directed to the following organizations:

- For faculty and staff records: [University Human Resources, Records and Information Services](#)
- For student records: [Office of the Registrar](#)
- For general legal information: [Office of the Vice President and General Counsel](#).

## 12.G Electronic Privacy

The University of Michigan respects the privacy of its employees and seeks to foster a climate free from arbitrary or capricious monitoring of employees and the records they create, use, or control.

Nonetheless, the University must, at times, access records or monitor record systems that are under the control of its employees. Furthermore, because the University permits some latitude for employees to use University resources to conduct University business off-campus and to conduct personal matters at their work sites, work-related records and employees' personal records may be located in the same place. For further discussion, including policy interpretations and interpretative guidelines, see [SPG 601.11](#).

The University also has a policy and guidelines regarding electronic access to potentially offensive material. It attempts to balance the right of members of the University community to access whatever electronic material they need and to express themselves freely with the responsibility not to expose others to material they find offensive. ([SPG 601.16](#)) Questions about this policy can be addressed to the Office of the Vice President and General Counsel. See also the ITS web page titled "[Guidelines for Implementing the Proper Use Policy of the University of Michigan: Responsible Use of Technology](#)"

[Resources](#)".