

The Universal Academy Charter School adopts as policy the provisions under State and Federal law concerning special education records, as defined including:

Electronic Student Records System (TREx)

Each open-enrollment charter school shall participate in an electronic student records system that satisfies standards approved by the Commissioner of Education and the Commissioner of Higher Education. (TEC §7.010(b))

Any person involved in the transfer and retrieval of student information under TEC §7.010 is subject to any State or federal law governing the release of or providing access to any confidential information to the same extent as the educational institution from which the data is collected. A person may not release or distribute the data to any other person in a form that contains confidential information. (TEC §7.010(f))

Applicability of the Family Educational Rights and Privacy Act

The Family Educational Rights and Privacy Act (FERPA) applies to educational agencies or institutions receiving funds under any program administered by the U.S. Secretary of Education that provide educational services or instruction to students or are authorized to direct and control public elementary, secondary, or postsecondary educational institutions. As a recipient of these funds, the open-enrollment charter school must comply with the Family Educational Rights and Privacy Act (FERPA). (20 U.S.C. § 1232g; 34 C.F.R. § 99.1)

Family Educational Rights and Privacy Act (FERPA)

FERPA is intended to protect the privacy of parents and students. (34 C.F.R. §§ 99.2)

Education records are those records that are directly related to a student, and maintained by an educational agency or institution or by a party acting for the agency or institution. (34 C.F.R. § 99.3)

FERPA grants parents rights with respect to the education records of their children. (34 C.F.R. § 99.4)

FERPA rights transfer 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 "eligible students." (34 C.F.R. § 99.5)

Parents or eligible students have the right to inspect and review the student's education records maintained by the school. (34 C.F.R. § 99.10) The open-enrollment charter school is not required to provide copies of records unless, for reasons such as great distance, it is impossible for parents or eligible students to review the records. (34 C.F.R. § 99.11) An open-enrollment charter school may charge a fee for copies. (34 C.F.R. § 99.11)

Parents or eligible students have the right to request that the open-enrollment charter school corrects records which they believe to be inaccurate or misleading. (34 C.F.R. § 99.20) If the open-enrollment charter school decides not to amend the record, the parent or eligible student then has the right to a formal hearing. (34 C.F.R. § 99.21) After the hearing, if the open-enrollment charter school still decides not to amend the record, the parent or eligible student has the right to place a statement with the record setting forth his or her view about the contested information. (34 C.F.R. § 99.21(b)(2))

Generally, the open-enrollment charter school must have written permission from the parent or eligible student in order to release any information from a student's education record. (34 C.F.R. § 99.30) However, FERPA allows the

open-enrollment charter school to disclose records, without consent, to certain parties under certain conditions, including:

- (1) to school officials including teachers within the open-enrollment charter school whom the open-enrollment charter school has determined to have legitimate educational interests (34 C.F.R. § 99.31(a)(1)(i)(A));
- (2) to a contractor, consultant, volunteer, or other party to whom the open-enrollment charter school has outsourced institutional services or functions, subject to the conditions set forth in FERPA regulations (34 C.F.R. § 99.31(a)(1)(i)(B));
- (3) to officials of another school, school system, or institution of postsecondary education 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, subject to the conditions set forth in FERPA regulations, (34 C.F.R. § 99.31(a)(1)(i)(B));
- (4) specified officials for audit or evaluation purposes (34 C.F.R. § 99.31(a)(3));
- (5) appropriate parties in connection with financial aid to a student (34 C.F.R. § 99.31(a)(4));
- (6) organizations conducting certain studies for or on behalf of the open-enrollment charter school (34 C.F.R. § 99.31(a)(6));
- (7) accrediting organizations (34 C.F.R. § 99.31(a)(6));
- (8) to comply with a judicial order or lawfully issued subpoena (34 C.F.R. § 99.31(a)(9));
- (9) appropriate officials in cases of health and safety emergencies (34 C.F.R. § 99.31(a)(10)); and
- (10) State and local authorities, within a juvenile justice system, pursuant to specific State law (34 C.F.R. § 99.31(a)(5)).

The open-enrollment charter school must use reasonable methods to ensure that school officials obtain access to only those education records in which they have legitimate educational interests. The open-enrollment charter school that does not use physical or technological access controls must ensure that its administrative policy for controlling access to education

records is effective and that it remains in compliance with the legitimate educational interest requirement in 34 C.F.R. § 99.31(a)(1)(i)(A). (34 C.F.R. § 99.31(a)(1)(ii))

The open-enrollment charter school may disclose, without consent, "directory" information such as a student's name, address, telephone number, date and place of birth, honors and awards, and dates of attendance. However, the open-enrollment charter school must tell parents and eligible students about directory information and allow parents and eligible students a reasonable amount of time to request that the school not disclose directory information about the students.

The open-enrollment charter school must notify parents and eligible students annually of their rights under FERPA. (34 C.F.R. § 99.7(a)(1))

Annual Notification of Rights under FERPA

The open-enrollment charter school must annually notify parents of students currently in attendance, or eligible students currently in attendance, of their rights under FERPA and its implementing regulations. (34 C.F.R. § 99.7(a)(1))

The notice must inform parents or eligible students that they have the right to:

- (1) inspect and review the student's education records;
- (2) seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
- (3) consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA and 34 C.F.R. §99.31 authorize disclosure without consent; and
- (4) file with the Department a complaint under 34 C.F.R. §§99.63 and 99.64 concerning alleged failures by the educational agency or

institution to comply with the requirements of FERPA and its implementing regulations.

(34 C.F.R. § 99.7(a)(2))

The notice must include all of the following:

- (a) the procedure for exercising the right to inspect and review education records;
- (b) the procedure for requesting amendment of records under 34 C.F.R. §99.20; and
- (c) if the educational agency or institution has a policy of disclosing education records under 34 C.F.R. §99.31(a)(1), a specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

(34 C.F.R. § 99.7(a)(3))

The open-enrollment charter school may provide this notice by any means that are reasonably likely to inform the parents or eligible students of their rights, including:

- (1) the open-enrollment charter school must effectively notify parents or eligible students who are disabled; and
- (2) the open-enrollment charter school must effectively notify parents who have a primary or home language other than English.

(34 C.F.R. § 99.7(b))

Directory Information under FERPA

Directory information means information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. (34 C.F.R. § 99.3)

Directory information includes, but is not limited to, the student's name, address, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, grade level, enrollment status (e.g., undergraduate or graduate, full-time or part-time), 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 agency or institution attended. (34 C.F.R. § 99.3)

Directory information does not include a student's—

- (1) social security number; or
- (2) student identification (ID) number, except as provided below. (34 C.F.R. § 99.3)

Directory information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the authorized user. (34 C.F.R. § 99.3)

The open-enrollment charter school may disclose directory information if it has given public notice to parents of students in attendance and eligible students in attendance at the open enrollment charter school of:

- (1) the types of personally identifiable information that the open-enrollment charter school has designated as directory information;

- (2) a parent's or eligible student's right to refuse to let the open-enrollment charter school designate any or all of those types of information about the student as directory information; and
- (3) the period of time within which a parent or eligible student has to notify the open-enrollment charter school in writing that he or she does not want any or all of those types of information about the student designated as directory information.

(34 C.F.R. § 99.37(a))

The open-enrollment charter school may disclose directory information about former students without complying with the notice and opt out conditions in 34 C.F.R. § 99.37(a). However, the open-enrollment charter school must continue to honor any valid request to opt out of the disclosure of directory information made while a student was in attendance unless the student rescinds the opt out request. (34 C.F.R. § 99.37(b))

A parent or eligible student may not use the right under 34 C.F.R. § 99.37(a)(2) to opt out of directory information disclosures to prevent an educational agency or institution from disclosing or requiring a student to disclose the student's name, identifier, or institutional e-mail address in a class in which the student is enrolled. (34 C.F.R. § 99.37(c))

The open-enrollment charter school may not disclose or confirm directory information without meeting the written consent requirements in 34 C.F.R. §99.30 if a student's social security number or other non-directory information is used alone or combined with other data elements to identify or help identify the student or the student's records. (34 C.F.R. § 99.37(d))

Special Education Eligibility Folder

It is the policy of the Universal Academy Open Enrollment Charter School to maintain an eligibility folder for each child receiving special education services, in addition to the child's cumulative record, that complies with 19 TAC 89.1075(a).