How should subpoenas be handled under FERPA?

Under the Family Educational Rights and Privacy Act, student education records may only be disclosed in response to a subpoena after proper legal review.

- Do not accept or process subpoenas at the counter.
- Immediately direct all subpoenas to University Counsel. You can reach the university counsel at Legal-Affairs@neiu.edu.
- If a process server arrives, refer or escort them to:
    - C-207 (mezzanine level, across from the C elevators)

Important:
Registrar staff are not authorized to determine the validity of a subpoena or to release records in response to it. University Counsel will determine:

- Whether the subpoena is valid
- Whether notice to the student is required
- What, if any, records may be released

How do I handle FBI or Homeland Security background check requests?

FERPA permits disclosure of education records only with valid, written student consent, unless a specific legal exception applies.

Registrar staff may assist only if valid consent is provided.

1. What qualifies as valid student consent under FERPA?

Before releasing any information, confirm the request includes a signed and dated authorization from the student that:

- Clearly identifies the student
- Specifies the records to be disclosed (e.g., “unofficial transcript”)
- Identifies the party receiving the records (e.g., agency name)
- Includes the student’s signature and date

Timing requirement:

- The authorization should be dated within the past calendar year
- If older than one year:
    - Ask the agent to confirm the authorization is still valid
    - If validity is unclear, do not proceed and refer to a supervisor

2. What information can be released?

With valid consent, you may provide:

- Unofficial transcript only

Do not provide:

- Official transcripts
- Class schedules (unless explicitly authorized)
- Sensitive data not included in the consent

Note: When in doubt, limit disclosure to the minimum necessary and consult a supervisor.

3. What documentation and recordkeeping are required?

FERPA requires institutions to maintain a record of disclosures.

For each request:

- Make a copy of the authorization/request
- Write the following in the top right corner:
    - Date processed
    - Student ID number
    - Agent’s name
    - Agent’s ID number

    - Note: *“Provided unofficial transcript under student consent”*
    - Your initials

Then:

- Place the document in the Records box for imaging into the student’s file

4. What should I communicate to the agent?

- Provide only the authorized document(s)
- You may explain general transcript elements (e.g., grades, degree conferral)
- Do not interpret records beyond factual explanation

After completing the request:

- Direct the agent to the next office, if applicable

When should I refuse or escalate a request?

Do not release any information and escalate to a supervisor or University Counsel if:

- There is no written student consent
- The consent is incomplete or unclear
- The request exceeds what the consent authorizes
- The requester presents a subpoena, warrant, or legal order
- You are unsure whether FERPA permits the disclosure

Key FERPA Principles to Remember

- Consent first: Written student authorization is the default requirement
- Minimum necessary: Only release what is explicitly authorized
- Recordkeeping: Log all disclosures of education records
- When in doubt: do not disclose—escalate instead