

BOARD OF TRUSTEES OF THE NEBRASKA STATE COLLEGES

ITEMS FOR DISCUSSION AND ACTION\STUDENT AFFAIRS, MARKETING, AND ENROLLMENT

ACTION: **First and Final Round Approval of Board Policy 3660; Chosen Name and Gender Identity and Revisions to Board Policy 3650; Student Records**

Policy 3660 is a new policy intended to address recent changes to NeSIS and SAP which permit students and employees to provide a chosen name, specify their gender identity, and includes the option of non-binary and/or intersex (X) to existing Male (M) and Female (F) options. The policy provides definitions and outlines the permissible uses by the Colleges of gender identity, legal name, and chosen name.

Revisions to 3650 include removing or modifying gender specific pronouns and the addition of chosen name and legal name to directory information.

The System Office recommends approval of the Board Policy 3660; Chosen Name & Gender Identity and Revisions to Board Policy 3650; Student Records.

ATTACHMENTS:

- Board Policy 3660 (PDF)
- Revisions to Board Policy 3650 (PDF)

NEBRASKA STATE COLLEGES

Student Affairs

POLICY: Chosen Name and Gender Identity

NUMBER: 3660

A. PURPOSE

The Board recognizes some students use chosen names to identify themselves and the Colleges should use the student's chosen name when possible. The Board further recognizes some students self-assert a gender other than their sex. The Colleges should use a student's gender identity when possible. When reference to a gender value is necessary, the Colleges should use gender identity in place of sex or binary gender values when possible.

B. POLICY

1. Chosen Name

1.1. **Permissible Use of Chosen Name:**

Except as set forth in Section B.1.2 of this policy, students may use a chosen name to identify themselves when possible.

1.2. **Prohibited Use of Chosen Name:**

- Students and prospective students will be required to provide their legal name when applying for admission and financial aid.
- A chosen name shall not be used for the purpose of misrepresentation, avoiding legal obligations, or otherwise in any manner that violates Board policies or federal, state, or local laws.
- A chosen name not capable of being administratively implemented, including but not limited to those including symbols or images are prohibited.
- A chosen name shall not consist of highly offensive language or derogatory names.
- The Colleges may remove any chosen name without prior notice to the student due to violations of this Policy.

1.3. **Use and Display of Chosen Name:**

The Colleges should make a good faith effort to use and display chosen names to the College community in all instances in which use of a legal name is not required when feasible. Such instances may include but are subject to change and not limited to human resources, student information and business systems; reports; documents; correspondence; class rosters; learning management systems; College directories; College email addresses; College identification cards; and College issued award certificates.

Instances in which a student's legal name will be used, include but are subject to change and not limited to:

- Official and Unofficial Transcripts
- Student Clearinghouse
- IRS Documents (e.g. 1098-T, W2 1095C)

- Scholarship and Financial Aid Processing
- Student Billing
- Human Resources Systems
- Public Directory Requests from Third Parties pursuant to Policy 3650
- Benefits Documents
- Data Transmitted to Governmental Agencies or Servicing Agencies
- When Required by Law

1.4. Legal Name Change: The Colleges shall establish procedures to allow students to change their legal name by providing appropriate legal documentation of the change. Such documentation may include court orders and divorce decrees.

2. Gender Identity

2.1. Permissible Use of Gender Identity

Students may specify by which they wish to be known within College information systems. In those instances in which a student uses a gender identity within College information systems, circumstances may require that the College use the student's sex.

Students' gender identity may be referenced in College communications, documents, and information materials, except in those instances in which the use of sex is required by Board Policy; federal, state, or local law; or other legal need. Not all College systems, databases, and processes may be capable of storing and/or displaying a separate gender identity and uses may exist that require the display of sex. Students should be prepared to reference their sex and provide corresponding identification when necessary. The ability, capacity and skill of the bidder to meet the specifications;

C. DEFINITIONS

- 1. Legal Name (or Official Name of Record):** The name that appears on a student's passport, driver's license, birth certificate, or Social Security Card.
- 2. Chosen Name:** A name selected by a student that differs from the student's legal name by which the student wants to be known or identified within the College Community.
- 3. Sex:** For purposes of this policy, sex (Male [M], Female [F], Non-Binary and/or Intersex [X]) means a person's sex assigned at birth or a person's legally recognized sex which may be found on a person's passport, driver's license, birth certificate, or Social Security Card.
- 4. Gender Identity:** An individual's internal knowledge of their own gender. Gender Identity may differ from an individual's sex.

D. RELATED LEGAL REFERENCES

Policy Adopted:

NEBRASKA STATE COLLEGES

Student Affairs

SUBJECT: Student Records

NUMBER: 3650

A. PURPOSE

In order to comply with the Family Educational Rights and Privacy Act (FERPA) ~~protects to protect~~ the privacy of student records, ~~the Act provides for the following addresses~~ a student's right to review education records, the right to seek to amend ~~those~~ education records, and to limit certain disclosures of information from a student's education records.

B. POLICY

1. Education Records

Education records means ~~those~~ records ~~that are~~ directly related to a student and ~~are~~ maintained by the College or a party acting ~~for on behalf of~~ the College. Education records do not include the following:

- 1.1. Records ~~that are~~ kept in the sole possession of the maker, ~~are~~ used only as a personal memory aid, and ~~are~~ not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- 1.2. Records of the security department of the College, subject to the provisions of 34 CFR § 99.8.
- 1.3. Records relating to an individual who is employed by an educational agency or institution, ~~that other than records relating to a student who is employed as a result of their status as a student which are education records, that:~~
 - Are made and maintained in the normal course of business;
 - Relate exclusively to the individual in that individual's capacity as an employee; and
 - Are not available for use for any other purpose.
- 1.4. Records on a student ~~that are:~~
 - Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in ~~his or her their~~ professional capacity or assisting in a paraprofessional capacity;
 - Made, maintained or used only in connection with treatment of the student; and

- Disclosed only to individuals providing the treatment. “Treatment” does not include remedial educational activities or activities that are part of the program of instruction at the College.
- 1.5. Records created or received by the College after an individual is no longer a student in attendance and ~~that~~ are not directly related to the individual’s attendance as a student.
 - 1.6. Grades on peer-graded papers before they are collected and recorded by a faculty member.

2. Right to Review Education Records

With certain exceptions, a student has a right to review records which are directly related to him/her and are maintained by the College. A student request to see ~~his/her~~ **their** file is to be sent to the office which maintains the file and will be honored within forty-five (45) days. Students must pay for the cost to make copies of any records. Parents of dependent students have the right to review information about their children, such as grades, bills, and other information without having to gain students’ consent as long as dependency is documented to the College.

3. Releasing Information Pursuant to Student Consent

- 3.1. Except as authorized by this policy, non-directory information, as defined ~~below~~ **herein**, will be released only upon the written request of the student.
- 3.2. When information is released from a student’s file pursuant to the student’s written consent, the consent document, the reason(s) for the release, and the name of the recipient of the release must be attached to the copy of the data released, which is kept in the file.
- 3.3. The recommendation or data released must include a statement that the information is not to be released to anyone else without the student’s written consent.

4. Releasing Information Without Student Consent

4.1. Colleges may, upon written request, release non-directory personally identifiable education records without student consent in accordance with FERPA and federal regulations. A record of such releases to third parties must be maintained by the College. No consent from the student is required for the release of, or access to, an education record or personally identifiable information under the following circumstances:

- By school officials who have a legitimate educational interest.
 - School officials include a person employed by the College in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health center staff); a person serving on a board or committee; or a student serving on an official committee, such as a disciplinary or grievance committee. A school official also may include a volunteer or contractor outside of the College who performs an institutional service or function for which the College would otherwise use its own employees and who is under the direct control

of the School with respect to the use and maintenance of information from education records, such as an attorney, auditor, or collection agent or a student volunteering to assist another school official in performing ~~his or her~~ **their** tasks.

- A school official has a legitimate educational interest if the official needs to review a record in order to fulfill ~~his or her~~ the official's professional responsibilities for the College. This includes, but is not limited to, performing an administrative task outlined in that official's duties; performing a supervisory or instructional task directly related to a student or the College; or performing a service or benefit for the student or the College such as health care, job placement, security, residential services, the acquisition of learning materials or student financial aid.
- In connection with financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.
- To organizations conducting studies for, or on behalf of, the College, in order to: (i) develop, validate, or administer predictive tests; (ii) administer student aid programs; or (iii) improve instruction.
- To accrediting organizations to carry out their accrediting functions.
- To parents of a student if the student is a dependent for IRS tax purposes.
- To comply with a judicial order or lawfully issued subpoena.
- To appropriate officials in connection with a health or safety emergency if knowledge of the information is necessary to protect the health or safety of students or other persons.
- To the victim and/or the general public the final result of a campus disciplinary proceeding involving a violent crime or non-forcible sex offense where the accused was found to have violated College rules or policies.
- To an official of another school, school system, or institution of higher education in which a student seeks or intends to enroll. Colleges shall provide access to education records of students who apply for admission and/or transfer within the NSCS whenever such records are requested by another NSCS College without obtaining student consent for such a release.
- Directory information, as described below.
- Other disclosures not listed above as permitted by FERPA and other applicable laws.

5. Directory Information

- 5.1. Colleges may disclose directory information relating to a student without violating FERPA, unless a student has restricted the disclosure of ~~his/her~~ **the student's** directory information in the Student Information System.

5.2. Directory information consists of:

- Student's **legal name and chosen** name
- Address (local, permanent, and electronic mail)
- Telephone numbers
- Participation in officially recognized activities and sports
- Weight, height and photographs of athletic team members
- Degrees, honors, and awards received
- Major field of study
- Dates of attendance (only beginning and end dates of semesters)
- Year in school
- Enrollment status (full/part-time)
- Date of graduation
- The most recent previous educational agency or institution attended

6. Filing Complaints

Persons wishing to file complaints regarding this policy or its implementation may do so with the U.S. Department of Education. See the Vice President **or Dean responsible** for Student Affairs for further information regarding such matters.

C. DEFINITIONS

None

FORMS / APPENDICES:

None

SOURCE:

20 USC 1232g

RRS 43-2101 Persons declared minors; marriage, effect

RRS 84-712.05 (1) Records which may be withheld from public

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99)

BOT 1/28/77; BOT 8/9/80; BOT 6/5/93; BOT 5/21/01; BOT 3/31/06; BOT 9/10/10; BOT 1/18/12;
BOT 4/25/14; BOT 6/18/15; BOT 6/16/17; BOT 11/14/19; **BOT 7/30/21**