Colleges are required to retain financial aid applications and supporting awarding and payment documentation for a specified period of time after the student receives the aid. The record retention requirements differ from program to program; there are also differences between rules established by CUNY and various state and federal rules. Apart from records storage, colleges must also follow federal, state and University regulations regarding the release and dissemination of student information. In addition, the state and federal governments have implemented stringent requirements concerning the use and dissemination of personally identifying information about students. This chapter outlines the various records retention and release requirements the financial aid administrator must be aware of and follow in order to be in compliance with federal and state law and University policy.

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Federal Records Retention Requirements for Title IV Programs

Under federal law, a school must keep comprehensive and accurate records demonstrating the proper administration of FSA program funds and must show a clear audit trail for FSA program expenditures. Records must clearly show that each recipient was eligible for the funds and that the funds were received, managed, disbursed, and returned in accordance with program regulations.

Program Records
A school must maintain records in the appropriate offices that document its eligibility to participate in the FSA programs, as well as the FSA eligibility of its educational programs, the school’s financial responsibility and standards of administrative capability. The FSA program records that must be maintained include, but are not limited to:

- Program Participation Agreement
- Application portion of the FISAP
- Accrediting and licensing agency reviews and reports
- State agency reports
- Audit and program review reports
- Self-evaluation reports

Fiscal Records
Schools must account for the receipt and expenditure of all FSA program funds in accordance with generally accepted accounting principles. A school must keep fiscal records that reflect each FSA program transaction along with general ledger control accounts and related subsidiary accounts that identify each FSA program transaction and separate those transactions from all other school financial activity.

FSA Recipient Records
A school is required to maintain, in the appropriate office, the following records pertaining to each FSA recipient, including but not limited to:

- Documentation pertaining to students’ admission, program of study and specific courses in which they were enrolled along with the data used to establish enrollment status and period of enrollment, and maintenance of satisfactory academic progress.
- Documentation directly related to each student’s (or parent’s) eligibility for Title IV funds (such as proof of high school diploma, GED or ability to benefit).
- Documentation relating to the awarding and disbursing of Title IV funds (COA information, required student certifications, SARs/ISIRs, documents used for verification of applicant data, counselor’s notes, financial aid history information for transfer students, FWS placement records, FWS job description records, FWS time sheets, loan entrance & exit counseling, professional judgment decisions, resolutions of conflicting information).
- The amounts of all FSA program grants, loans or FWS awarded; their payment period; the loan period, if appropriate; the calculations used to determine the amounts of these awards; the date and amount of each disbursement, the date and amount of each payment of FWS wages, and the repayment history for Perkins Loan borrowers.
- Information on the date, amount and basis for the calculation of any refunds/ returns or overpayments due to or on behalf of the student and the payment of any return or overpayment to the FSA program fund, a lender or the Department, as appropriate.
Minimum Record Retention Periods

Student records must be organized and readily available for review by auditors. All the student records required by regulation do not have to be maintained in the financial aid office, only those directly pertaining to the awarding of financial aid.

A school is required to keep records relating to the school’s administration of a campus-based program or the Federal Pell Grant Program for three years after the end of an award year for which the program funds were awarded and disbursed. This retention period covers program records maintained by the financial aid office, as well as other records relating to the administration of FSA programs maintained by the Offices of the Registrar, Bursar and Admission. A school may be required to retain records for longer than three years if the records are involved in any loan, claim, or expenditure questioned in any FSA program review, audit, or investigation. If the three-year retention period expires before the issue in question is resolved, the school must continue to retain all records until resolution is reached.

Note: CUNY Board of Trustees Records Retention and Disposition Regulations call for a longer minimum student records retention period than stated here (see p. 12-6 of this chapter).

<table>
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<th>Records Retention Chart</th>
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<tr>
<td><strong>FSA Program</strong></td>
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<tr>
<td><strong>Campus-Based, Pell, ACG/SMART</strong></td>
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<tr>
<td>Except: Fiscal Operations Report (FISAP) and supporting records</td>
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<tr>
<td>Perkins repayment records (after 12/87, includes original repayment schedule, though manner of retention remains same as the promissory note)</td>
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<tr>
<td>Perkins original promissory notes (before 12/87, included original repayment schedule)</td>
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<td><strong>FFEL &amp; Direct Loans:</strong></td>
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<tr>
<td>Records related to borrower’s eligibility and participation</td>
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<tr>
<td>All other records, including any other reports or forms</td>
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Special Retention Rules for FISAP and Federal Perkins Loan Program

Schools must retain all required records for a minimum of three years. However, the starting point for the three-year period is not the same for all records. For example, a school must keep the Fiscal Operations Report and Application to Participate (FISAP) and records necessary to support its data for three years from the end of the award year in which the FISAP is submitted. The most current FISAP, which will contain 2013-2014 data, must be submitted during the 2014-2015 award year, to request 2015-2016 funds, and has a submission date of October 2014. Because this FISAP will be submitted during 2014-2015 award year, records must be kept until at least June 30, 2018.

There is an additional exception to the general record retention period for repayment records (including any cancellation and deferment request) for Perkins Loans. These records must be kept for 3 years from the date on which loan is repaid, canceled, or assigned to the Department of Education. Perkins original promissory notes and original repayment schedules must be kept until the loan is paid in full, discharged or canceled in full, or assigned to the Department of Education. The original promissory notes and repayment schedules must be kept in a locked, fireproof container.

Special Retention Rules for Direct Loan and FFEL Programs

Records relating to a borrower’s eligibility and participation in Direct Loan and FFEL programs must be kept for three years after end of the award year in which the student last attended the school. All other records and reports related to a school’s participation in the loan programs must be kept for 3 years after end of award year in which records are submitted to the Department of Education, to a lender, or to a guaranty agency.

Formats for Record Retention

A school must maintain all required records in a systematically organized and retrievable manner. Unless a specific format is required, a school may keep required records in hard copy, microform, computer file, optical disk, CD-ROM, or other media formats. Regardless of the format used to keep a record, all records (except ISIRs) must be retrievable in a coherent hard copy format. A coherent hard copy format includes, for example, an easily understandable print out of a computer file.

Any document that contains a signature, seal, certification, or any other image or mark required to validate the authenticity of its information must be maintained in its original hard copy or in an imaged media format. This includes tax returns, verification statements, certifications, and SARs used to determine eligibility. A school may maintain a record in an imaged media format only if the format is capable of reproducing an accurate, legible, and complete copy of the original document. When printed, the copy must be approximately the same size as the original document.

The SAR or ISIR must be kept in the format in which it was received by the school, except that a paper SAR may be maintained in either a hard copy or imaged media format. CUNY has the ability to preserve the ISIR data that it has maintained during the award year by archiving the data to a disk or other computer format.

Schools that participate in FSA programs must cooperate with the agencies and individuals involved in conducting any audit, program review, or investigation authorized by law by providing timely access to the requested records for examination and/or copying.
Records Retention Requirements for Special Programs

The provisions regarding records retention for Title IV programs also apply to the awarding and payment of Special Program funds. In addition, records documenting student eligibility to enter the program and student eligibility to receive aid (full-time study) must also be maintained.

Records documenting compliance both with the economic and academic criteria for program admission must be kept for three years after the student receives a degree. If the student stops-out or drop-out, these records must be kept for a minimum of six years so that the college can maintain information on program eligibility for that student in case he/she returns. After six years, it is the student’s responsibility to re-establish eligibility.

Records Retention Requirements - Aid for Part-time Study Program

Institutions participating in New York State’s Aid for Part-time Study Program are required to maintain the following records for a period of 5 years, following the end of the academic year for which an award was made:

- A copy of all applications submitted to the institution, whether an award was made or not, together with any ancillary documents which may have been required to be submitted with the application.
- A record of the institution’s evaluation of financial need for eligible applicants.
- A fiscal record for each term for each student for whom an award was made which shall include total tuition charges, all financial aid, the amount of the award under this program and the amount of tuition waived (or refunded).
- An academic record for each term for which a recipient received an award that shall include a list of all courses registered for in that term, grades received and the cumulative average for the term.

CUNY Records Retention and Disposition Regulations

The CUNY Records Retention and Disposition Schedule issued in May 2007 indicates the minimum length of time that college and University officials must retain their records before the records may be disposed of legally. All CUNY records must be retained in accordance with the retention periods and guidelines specified in this Schedule and in any related policies, procedures, guidelines, or directives that CUNY has issued or may issue in the future.

1[84] **Student financial aid records**, including but not limited to Free Application for Federal Student Aid (FAFSA) reports, applications for assistance and related eligibility determination records, financial aid disbursement records, copies of income tax forms, financial aid transcripts from other schools, award and declination notices, verifications for non-taxable income and other tax-related records, instructor requests for work-study students, student work-study job descriptions, copies of work-study time records to verify hours with student schedule, and veteran's service information

RETENTION: 6 years after graduation, date of last attendance, or financial accounting, whichever is longer
Disclosing Student Information Under FERPA

The Family Educational Rights and Privacy Act of 1974 (FERPA) sets limits on the disclosure of students’ personal information from records kept by institutions. FERPA requires that institutions establish policies that permit students to inspect and review their educational records, request the amendment of records believed to be inaccurate or misleading, and give consent to disclosure of personally identifiable information in educational records, with some exceptions. Revised regulations, issued in 1997 by the Department of Education to implement the 1994 statutory amendments, eliminated a requirement that educational institutions maintain written policies regarding access, disclosure, and challenges of educational records. Instead, colleges are required to include this information in their annual notification of rights to students.


FERPA prohibits funding of an educational agency or institution that has a policy or practice of disclosing students’ education records (or personally identifiable information contained therein) without the consent of the parent. When a student turns 18 or attends a postsecondary institution at any age, the rights under FERPA transfer from the parent to the student.
FERPA defines “education records” as “those records, files, documents and other materials which –

(i) contain information directly related to a student; and
(ii) are maintained by an educational agency or institution or by a person acting for such agency or institution.”

FERPA excludes from the definition of “education records” (and from the restrictions and rights of access under FERPA) records that are maintained by a law enforcement unit of an education agency or institution that were created by that unit for the purpose of law enforcement.

Under FERPA, students have the right to inspect and review their education records. The school must provide students with the opportunity to inspect their records within 45 days of receiving such a request. The school may require the student to review the information with an institutional official present and may set a policy regarding making copies of information for the student. Schools may not charge a “records retrieval fee” but may charge for the copying as long as the charges do not prevent the student from access to the records. Students do not have the right to inspect and review financial information submitted by their parents unless the parent has given written permission.

Institutions must safeguard disclosure of personally identifiable information about students and provide an opportunity for students to challenge the contents of the record. The Registrar’s Office shall maintain a record of each request for and disclosure of a student education record, other than directory information. Each campus is to have an official or employee designated by the college president to hear student appeals from denial of access to records, requests to correct records, or other rights under FERPA.

Appeals concerning alleged failures by a CUNY College to comply with the requirements of FERPA may be made to the University’s General Counsel and Vice Chancellor of Legal Affairs within 30 days of the alleged failure to comply, and appeal decisions shall be submitted to the Board Committee on Student Affairs and Special Programs for its approval, with the student having the opportunity to submit a response.

FERPA generally requires prior written consent from the parent or eligible student before the institution may disclose personally identifiable information from education records to a third party. However, the law contains a number of exceptions to this general rule. Institutions may disclose education records or their components without written consent of the student to:

- persons or organizations determining financial aid eligibility or award amounts, or concerning enforcement of terms of the student’s financial aid. Since terms of a Title IV loan require that it be repaid, a collection agency may have access to those records necessary to enforce the terms of the promissory note.
- a college, Central Office or Board of Trustees official, employee, or agent, such as an attorney representing the college, whom the college has determined to have a legitimate educational interest in the particular student’s records.
- an official or employee of another college, or other institution of postsecondary education, who indicates the student seeks enrollment or intends to enroll, provided that the college also gives the student written notice of such disclosure, and upon
request, a copy of the record that was disclosed.

- authorized representatives of the Comptroller General of the United States; the Secretary of Education of the United States; or State and local educational authorities where access to the education records is in connection with an audit or evaluation of the Federal or State supported education programs or for the enforcement of or compliance with Federal legal requirements which relate to those programs.

Although the protections under FERPA transfer to the student after he or she turns 18 years old, or enters a postsecondary institution at any age, FERPA provides ways in which a school may, but is not required to, share information from an eligible student's education records with parents, without the student's consent. For example:

- Schools may disclose education records to parents if the student is claimed as a dependent for tax purposes.
- Schools may disclose education records to parents if a health or safety emergency involves their son or daughter.
- Schools may inform parents if the student, if he or she is under age 21, has violated any law or policy concerning the use or possession of alcohol or a controlled substance.
- A school official may generally share with a parent information that is based on that official's personal knowledge or observation of the student.

Institutions may disclose, without consent, information from education records in compliance with a judicial order or a lawfully issued subpoena. However, the institution must first make a reasonable attempt to notify the student, except in the case of Federal grand jury subpoenas or law enforcement subpoenas where the court has ordered the institution not to disclose to anyone the existence or contents of the subpoena or the institution’s response.

FERPA also permits the disclosure of educational records or personally identifiable, non-directory information from education records in connection with a health or safety emergency “if knowledge of the information is necessary to protect the health and safety of the student or other individuals.” However, any release must be narrowly tailored considering the immediacy, magnitude, and specificity of information concerning the emergency. This exception is temporally limited to the period of the emergency and generally will not allow for a blanket release of personally identifiable information from a student’s education records.

FERPA permits educational agencies and institutions to disclose, without the consent or knowledge of the student or parent, personally identifiable information from the student’s education records to the Attorney General of the United States or to his designee in response to an *ex parte* order in connection with the investigation or prosecution of terrorism crimes. An *ex parte* order is an order issued by a court of competent jurisdiction without notice to an adverse party. *FERPA* does not require a school official to record a disclosure of information from a student’s education record when the school makes that disclosure pursuant to an *ex parte* order and “shall not be liable to any person for that production.”
OSFA

When the institution releases personally identifiable information, such as loan records, such information must be accompanied by a statement informing the recipient that the information may not be disclosed to others without the written consent of the student.

The release of a financial aid transcript to another institution and the providing of information to the Inspector General of the Department of Education does not require notification/permission of the student.

A record must be kept of each request for access and each instance of disclosure of a student’s personally identifiable information. The record must identify who requested the information and their legitimate interest in the information. The record must be added to the student’s permanent file and kept for as long as the educational records are kept.

There are exceptions to this requirement. The school does not have to record instances when the request is made by:

- The parent or eligible student
- A school official who has a legitimate educational interest
- A party with written consent from the parent or eligible student
- A party seeking directory information
- Certain court orders or subpoenas.

CUNY Policy on Withholding Student Records

CUNY policy regarding students who have not satisfied their financial obligations with the colleges was originally promulgated on April 20, 1964 and last amended on November 18, 2002:

“Students who are delinquent and/or default in any of their financial accounts with the college, the University or an appropriate State or Federal agency for which the University acts as either a disbursing or certifying agent, and students who have not completed exit interviews as required by the Federal Perkins Loan Program, the Federal Family Education Loan Program, the William D. Ford Direct Loan Program, and the Nursing Student Loan Program, are not to be permitted to complete a registration, or issued a copy of their grades, a transcript of academic record, certificate or degree, nor are they to receive funds under the Federal campus-based student assistance programs or the Federal Pell Grant Program unless the designated officer, in exceptional hardship cases and consistent with Federal and State regulations waives in writing the application of this regulation.”

The designated officer referred to above is the President of the college. In the case of the Law School, the designated officer is the Dean of the Law School.

A college may refuse to perform an administrative service such as certifying registration status or signing loan deferment documents for any student who has failed to meet his/her financial obligation to the college. This sanction is less severe than the ultimate sanction of canceling a student’s registration which is permitted based upon the Board’s policy indicated above.
Note: The following discussion on a college’s right to withhold academic transcripts was posted to the NASFAA website on 2/2/09:

Many financial aid administrators wonder if a school can withhold an academic transcript when a student has defaulted on a Title IV loan, owes an overpayment on a Title IV grant, or has failed to complete a Perkins or Stafford Exit Interview. While the school has the discretion to make its own policy on this matter, it must be sure that its policy does not violate the Family Educational Rights and Privacy Act (FERPA).

Prior to July 1, 1995, a school could have included a provision in the Perkins promissory note that it would not release academic transcripts of students in default. In July 1995, however, the Department of Education (ED) reassessed this practice in light of FERPA and concluded that a school would be in violation of this law if it denied a student access to inspect and review his or her education records. Under the FERPA regulations, the institution must give a student a copy of the records if failure to do so would effectively prevent him or her from exercising the right to inspect and review the records.

Subsequently, ED clarified that a school could withhold official transcripts, but could not deny an individual access to, or unofficial copies of, his or her education records. Therefore, if a school chooses to withhold the official transcript, a copy of the transcript should be furnished to the student stamped with the word "unofficial" (or a similar indication).

Many schools find withholding official academic transcripts to be an effective tool in encouraging student loan repayment. Although the official academic transcript may be withheld, it is important to remember that an institution may not deny an individual access to his or her education records, and may be required to provide the individual with unofficial copies of records.

### Use of Social Security Numbers as Student ID Numbers Prohibited

On July 1, 2001, an amendment to New York State education law took effect that restricts the use of students’ social security numbers by educational institutions. The law reads: “No public or private elementary or secondary school or college...shall display any student’s social security number to identify such student for posting or public listing of grades, on class rosters, or other lists provided to teachers, on student identification cards, in student directories or similar listings, or, unless specifically authorized or required by law, for any public identification purpose.”

### Financial Services Modernization Act

Colleges and universities must have implemented an information security program by May 23, 2003, to be in compliance with provisions of the Financial Services Modernization Act (Gramm-Leach-Bliley Act, or GLB Act), a Federal Trade Commission (FTC) rule which mandates extensive new privacy protections for consumers. The GLB Act requires financial institutions to take steps to ensure the security and confidentiality of customer records, such as names, addresses, phone numbers, bank and credit card account numbers, income and credit histories, and Social Security numbers. Higher education institutions which participate in financial activities, such as making Federal Perkins Loans, are considered financial institutions for GLB Act purposes.
Colleges and universities are deemed to be in compliance with the privacy provisions of the GLB Act if they are in compliance with the Family Educational Rights and Privacy Act (FERPA). However, higher education institutions are subject to the provisions of the GLB Act related to the administrative, technical, and physical safeguarding of customer information.

Financial institutions, including colleges and universities, need to “develop, implement, and maintain a comprehensive written information security program that contains administrative, technical and physical safeguards” appropriate to the size and complexity of the institution and the sensitivity of any customer information at issue.

Colleges and universities must:

- Designate an employee or employees to coordinate their information security program;
- Identify reasonable, foreseeable internal and external risks to the security, confidentiality, and integrity of customer information that could result in the unauthorized disclosure, misuse, alteration, destruction, or other compromise of such information, and assess the sufficiency of any safeguards in place to control these risks.
- Design and implement information safeguards to control the risks identified through risk assessment and regularly test or monitor the effectiveness of the safeguards’ key controls, systems and procedures.
- Require service providers by contract to implement and maintain adequate safeguards.
- Periodically evaluate and adjust information security program based on the results of testing and monitoring, any material changes to operations, or any other circumstances that are known to have or that may have a material impact on the institution’s information security program.

The FTC regulations on safeguarding customer information are available at: http://www.access.gpo.gov/nara/cfr/waisidx_03/16cfr314_03.html

Here is an additional resource provided by the Catholic University of America Office of General Counsel that relates to the Financial Services Modernization Act (Gramm-Leach-Bliley Act):

http://counsel.cua.edu/FEDLAW/ glb.cfm