



TEXAS TECH UNIVERSITY HEALTH SCIENCES CENTER EL PASO

Operating Policy and Procedure

HSCEP OP: 77.21 FERPA Breach Policy

PURPOSE: Federally funded higher education institutions must protect student data from internal and external unauthorized disclosures under the Family Educational Rights and Privacy Act (FERPA), 34 Code of Federal Regulation Part 99, Texas Administrative Code 202.73, and Texas Business and Commerce Code Chapter 521 mandate private and public institutions of higher education to investigate potential breaches of FERPA protected student information and, at times, inform the public of a potential breach. The purpose of this policy is to provide an institutional process to investigate and report suspected breaches and accidental disclosures of student information that is electronically or physically stored.

REVIEW: This HSCEP OP will be reviewed by May 1 of each odd-numbered year (ONY) by the Vice President for Academic Affairs, the Associate Vice President for Information Technology, the Vice President for Institutional Advancement, the Associate Vice President for Institutional Compliance, and the Registrar with recommendations for revisions submitted to the General Counsel and President or designee by June 15.

I. Definitions:

Student Personally Identifiable Information (PII) under FERPA: Student PII, under FERPA, generally refers to identifiable information that is maintained in education records and includes direct identifiers: a student's name or identification number, indirect identifiers, such as a student's date of birth, or other information which can directly or indirectly distinguish the identity of a student.

Breach of System Security: An incident in which student information and other PII that is sensitive, protected, or confidential, as provided by federal and state law, is inadvertently disclosed, stolen or copied, transmitted, viewed, or used by a person or entity unauthorized to engage in that action.

II. Breach Classification:

The severity of a breach that compromises student PII stored in an IT system or physical storage (i.e., printed records) and subject to unauthorized verbal disclosure, is classified according to the overall impact it had, or is expected to have, on TTUHSC El Paso. Throughout the investigation and response process, each breach is subject to re-classification, depending on the context of the incident and discoverable facts. Some breaches will not require a formalized investigation due to the low impact of the incident. The impact of a breach may be classified as low and inadvertent, moderate, or high, as follows:

- A. Low Impact and Inadvertent Breaches are common, primarily accidental, that unintentionally disclose student PII to an unauthorized source.
- B. Moderate Impact Breaches are the intentional and unauthorized acquisition of at least one student's PII. The breach must be reported to federal and state agencies and the students affected by the breach.

- C. High Impact Breaches are the intentional unauthorized acquisition of student PII that affects 250 or more individuals, which must be reported to federal and state agencies, the public, the media, and the students affected by the breach.

III. Breach Investigation and Breach Response Team:

- A. Obligation to report: If a business associate/contractor, faculty member, staff, or student suspects an inadvertent, unlawful and/or unauthorized breach of electronic system or digital system student PII, they are expected to report that concern to the Office of the TTUHSC El Paso Associate Vice President for Information Technology or their designee as soon as possible, within 24 hours, by email at elp.helpdesk@ttuhsc.edu or phone at 915-215-4111. Suspected inadvertent, unlawful, and/or unauthorized breach of physically stored student PII by physical removal, copying, or verbal disclosure should be reported as soon as possible, within 24 hours, to the Registrar's Office at epregistrar@ttuhsc.edu or phone at 915-215-4370. The Associate Vice President for Information Technology and the Registrar, or their designees, shall forward all breach reports to the chair of the Breach Response Team within 24 hours.
- B. Breach Response Team: In accordance with Texas law, a Breach Response Team shall be designated to investigate and determine the level of any student PII breach and TTUHSC El Paso's duty to provide breach notifications to individuals and government agencies under applicable federal and state privacy laws. The specific and technical responses for moderate and high-impact breaches will vary depending on the details of each incident.
- 1) The Breach Response Team, chaired by the TTUHSC El Paso Chief Information Officer (CIO), the Vice President for Academic Affairs, the Associate Vice President of Institutional Compliance, the Vice President for Institutional Advancement, and the Chief of Campus Police, or their designees.
 - 2) The duties of the Breach Response Team shall include:
 - a. Determining how the student PII breach occurred
 - b. Determining the level of the breach (low and inadvertent, moderate, high)
 - c. Determining the number of students affected.
 - 3) The Breach Response Team shall investigate potential PII breaches to determine if the incident resulted in a moderate or high impact breach of student PII. The Breach Response Team shall produce a report for each investigation that shall answer the following questions:
 - a. On what date and in which department did the incident occurred?
 - b. In what form was the student PII disclosed?
 - c. What was the nature and extent of the breach: was the disclosure of student PII inadvertent, a moderate impact breach, or a high impact breach?
 - d. Who, or what entity is responsible for the breach?
 - e. If inadvertent, what were the circumstances and causes of the disclosure(s)/breach?
 - f. What happened to the unauthorized accessed student PII?
 - g. What additional controls are recommended to mitigate the damage and the potential for similar incidents in the future?
 - 4) If the Breach Response Team's determines that a student PII breach is of moderate impact, it shall notify all parties involved within 60 days, including the United States Department of Education, and the appropriate Texas Government Agencies, per Texas Administrative Code Section 202.73 and Texas Business and Commerce Code Chapter 521.

- 5) If the Breach Response Team determines that a breach is of high impact (affecting 250 or more individuals), the Office of Texas Attorney General shall be notified and the stipulations shall be followed for “Urgent Reporting” in Texas Government Code Section 2054, Texas Administrative Code 202.73(b), and Texas Business and Commerce Code Chapter 251. If the compromised PII is accessed through an IT system or program, then the incident report shall be retained by the Office of Information Technology (with copies retained by the Registrar’s Office) for six years. Breach reports involving the unlawful accessing or disclosure of student PII not stored in an IT system or program shall be retained by the Registrar’s Office for six years.
- 6) Low Impact and inadvertent incidents do not necessitate significant investigations; however, the chair of the Breach Response Team, or their designee, will provide a written, signed report describing their findings and their rationale for labeling the breach as “Low Impact” to the Associate Vice President for Institutional Compliance and the Vice President for Academic Affairs or their designees. Affected students shall be notified of the incident by the Associate Vice President for Institutional Compliance and/or the Vice President for Academic Affairs or their designees, and be informed of steps the institution will take to better track student PII.
- 7) If a Breach Response Team investigation determines that engagement with a law enforcement agency is required or advisable, local law enforcement agencies or the FBI shall be notified as soon as possible. If a law enforcement agency requests a delay in required breach notifications, the request must be documented in writing by the requesting law enforcement agency and provided to TTUHSC El Paso. The delay request must be provided to the affected individuals as part of the notification process.
- 8) The Breach Response Team shall review TTUHSC El Paso IT Policies and Procedures: OP 56.01 – 1.4.7, Incident Management; OP 56.50 – Incident Response; and OP 56.90 – IT Event Management/Response. These three OPs, with guidance from the Office of Information Technology, shall inform the Breach Response Team of the technical processes required to secure the affected computer systems and data after a student PII breach is confirmed.
- 9) The Breach Response Team shall prepare a report to be presented to the President of TTUHSC El Paso by the Associate Vice President for Information Technology and/or the Vice President for Academic Affairs. In addition, the Breach Response Team’s report shall be disclosed to the Texas Tech University System General Counsel prior to any notifications being sent to the affected individuals as required under section II above.
- 10) Should a breach require notification to the public and the media, those notifications will be managed by the Vice President for Institutional Advancement, or their designee, in consultation with the Associate Vice President for Institutional Compliance and General Counsel.
- 11) Reports to government agencies shall be made by the Associate Vice President for Institutional Compliance in consultation with the Office of the President, the Office of Institutional Research and Effectiveness, and General Counsel. The Breach Response Team will provide a written, signed report detailing the investigation and all findings to the Associate Vice President for Institutional Compliance.

IV. Notice to Individual(s):

The department(s) affected by a PII breach shall be responsible for working with the Associate Vice President of Institutional Compliance and the Breach Response Team to ensure fulfillment of the notification requirements per section II above. All notifications shall include:

- A brief description of the breach and the types of information that were involved in the breach.
- A brief description of the Breach Response Team's investigation and what TTUHSC El Paso intends to do to mitigate the harm of the breach and prevent further breaches.
- A list of steps affected individuals should take to protect themselves from potential harm