FERPA and References - From NACE (National Association of Colleges and Employers)

Tips for Providing References and Referrals

* Prior to providing a reference, obtain written consent from the person about whom the reference will be given. (See the [FERPA Permission to Release Form](http://career.mst.edu/resourcesforfacultystaff/) located in the first paragraph)
* Develop policies and procedures about providing references including, if possible, designating specific individuals to provide references.
* Employers are encouraged to provide only “necessary” information. This includes dates of employment, salary information, and position.
* Follow your organization’s policy regarding providing a reference.
* Avoid lunch discussions or “off the record” telephone conversations with prospective employers regarding a person’s performance.
* If you are unaware that the job applicant has named you as a reference, ask the prospective employer for verification that the person has given consent for the reference.
* Provide only factual information, based upon personal knowledge/observation of the person through direct contact with the person or obtained from the person’s personnel record or student record.
* Respond to direct and specific inquiries about the job applicant as per your organization’s policies and procedures. Direct the response to the person who requested the information.
* Relate the reference to the specific position for which the person applied and the work that the applicant will perform.
* Do not provide subjective statements or opinions; only provide factual information that can be substantiated.
* Maintain uniformity with referrals.

Family Educational Rights and Privacy Act

Faculty or other school personnel who are asked to give references have an additional duty under the Family Educational Rights and Privacy Act (FERPA). FERPA requires that federally funded institutions, under programs administered by the U.S. Department of Education, comply with certain procedures on disclosing and maintaining educational records. FERPA was not enacted to preclude the disclosure of educational records simply because the records identify a student by name; rather, it was designed to protect the student’s educational information and status as a student.

FERPA prohibits the disclosure of a student’s protected information to a third party, thereby prohibiting the disclosure of educational information to potential employers without the prior approval of the student or parent. This includes, but is not limited to, information such as records, files, documents, and other materials maintained by an educational agency or institution, or by a person acting for such agency or institution.

Regarding reference letters, the critical inquiry is whether these records include or incorporate the student’s “educational information” (i.e., GPA, grades, social security numbers, and so forth). If a reference letter contains “protected” educational information, the information cannot be disclosed without satisfying FERPA’s predisclosure requirements. A referral source must obtain the signed, written consent of the student to disclose the foregoing information in a referral letter.

FERPA further requires an educational institution to grant students access to their educational records, including letters of recommendation. A student may waive the right to access confidential letters of recommendation. Such a waiver must be in writing. Should a student provide a waiver to the institution, this should be explicitly stated in the letter of recommendation itself.

Referral sources should be mindful of any information that is provided to potential employers. Any negative information may put an individual or entity on the defensive, especially if it costs someone a position.