

COUNSELING & PSYCHOLOGICAL SERVICES

CONFIDENTIALITY POLICY



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CONFIDENTIALITY

Counseling & Psychological Services (CAPS) employees/interns are entrusted with maintaining the confidentiality of those students seeking services at CAPS. CAPS is responsible for the confidentiality of student counseling and educational records. In accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA) and Health Insurance Portability and Accountability Act (HIPAA), the counseling and educational record of each student is considered confidential. CAPS is responsible for declaring, implementing, and enforcing policies regarding the access to counseling and educational records.

CAPS staff with legitimate interest may have access to student counseling and educational records. Information shared in CAPS counseling sessions and subsequently recorded in a student's file are strictly confidential and will not be released without expressed, written consent in accordance with HIPAA privacy rules and restrictions outlined to protect clients seeking treatment.*

The Family Education Rights and Privacy Act of 1974 (FERPA) provides that student records maintained by physicians, psychologists, psychiatrists, or other recognized professionals and paraprofessionals are not education records. Student files do not become part of any permanent educational record at the university and remain the confidential property of CAPS.

If a student indicates the intent to share counseling information with a third party, the counselor must discuss the positive and negative consequences, actual and potential, of such a disclosure prior to the release of information. Once a student's request to release information is considered clinically informed, a written authorization for release of information will be signed and dated.

*NOTE: Students seeking treatment for alcohol or substance abuse are protected by Federal Regulations (42 CFR Part 2), which prohibits a recipient from making any further disclosure of alcohol or substance abuse treatment information unless expressly permitted by written authorization of the person to whom it pertains or otherwise permitted by 42 CFR Part 2. These Federal Regulations also restrict any use of the information to criminally investigate or prosecute any alcohol or drug abuse patient.

In keeping with the Clery Act Federal Register Vol. 79, No. 202, when appropriate, CAPS counselors will inform the persons they are counseling to report crimes on a voluntary basis to the necessary parties—e.g. Title IX and/or LUPD.

LIMITS OF CONFIDENTIALITY

Exceptions to maintaining student confidentiality may include, but not be limited to the following:

- a. A student may be at imminent risk of causing physical harm to self or others.
- b. A student is at risk of suffering harm due to lack of capacity to protect oneself from harm or to provide for his/her basic human needs.
- c. There is a substantiated suspicion that a child, elder, or disabled person is being sexually or physically abused or is at risk of such abuse.
- d. A valid court order is issued to obtain the student's records.
- e. During emergencies when critical information is necessary to ensure student safety.
- f. In the event a student is hospitalized for mental health reasons via emergency services, CAPS will contact your parent(s)/legal guardian(s) upon request.
- g. In instances where the counselor consults with CAPS supervisors and professional peers to enhance the quality of a student's care.
- h. CAPS administrative staff access and utilize information to perform administrative tasks, such as scheduling, creating client records, etc.
- i. During research activities when student names and identifying data are removed from the cases and data is examined in a group format to analyze trends, the effectiveness of services, and changes in the student population seeking services at CAPS. Specific data that could lead to the identification of a particular student is expressly prohibited.
- j. For educational/training purposes when CAPS staff/interns and their registered supervisors review client information and digital recordings to enrich the counselor's professional skills and abilities. Such digital recordings will be erased following the supervisory process.

The decision to share student information is not pursued without considerable scrutiny on the part of CAPS counseling staff. In non-emergency situations, the counselor will make every effort to contact the student to explore the impact of the decision to release or not to release confidential information. All decisions to release information about a student will conform to the ethical standards for counselors and psychologists.

A decision to breach student confidentiality may be informed by, but not limited to, a review of LU campus-based reports, hospital/ER reports, MD/Psychiatry reports, and clinical case history. The CAPS Executive Director will maintain sole responsibility for the decision to breach confidentiality and initiate contact with a third party. Anyone suspecting that a violation has occurred should report these suspicions to a CAPS Executive Director. If it is determined that a violation of the policy has occurred, an investigation of the breach will be pursued and a decision will be made concerning disciplinary action or termination.