

## **ADMINISTRATIVE POLICY TYPE: STUDENTS**

### **POLICY TITLE: Family Educational Rights and Privacy Act Compliance**

#### **Introduction**

The *Family Educational Rights and Privacy Act of 1974* (FERPA) helps protect the privacy of student education records. The Act provides for the right to inspect and review education records, the right to seek to amend those records and to limit disclosure of information from the records. The intent of the legislation is to protect the rights of students and to ensure the privacy and accuracy of education records. The act applies to all institutions that are the recipients of federal aid administered by the Secretary of Education.

#### **What rights does FERPA afford students with respect to their education records?**

- The right to inspect and review their education records within 45 days of the day the College receives a request for access.

Students should submit written requests to the Enrollment Services Office and identify the record(s) they wish to inspect. The staff of the office will make arrangements for access and notify the student of the time and place where the records may be inspected. If the requested records are not maintained in the Enrollment Services Office, the student will be notified of the correct official to whom the request should be addressed.

- The right to request an amendment to the student's education records that the student believes to be inaccurate or misleading.

Students may ask the College to amend a record that they believe is inaccurate or misleading. They should write the Enrollment Services Office, clearly identify the part of the record they want changed, and specify why it is inaccurate or misleading.

If the College decides not to amend the record as requested by the student, the College will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing will be provided to the student when notified of the hearing.

- The right to consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

One exception which permits disclosure without consent is disclosure to school officials with legitimate educational interests. A school official is a person employed by the College in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the College has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.

- The right to file a complaint with the U.S. Department of Education concerning alleged failures by the College to comply with the requirements of FERPA. The name and address of the office that administers FERPA is:  
Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Ave., SW  
Washington, DC 20202-5920

### **Who is protected under FERPA?**

Students who are currently enrolled or formerly enrolled, regardless of their age or status with regard to parental dependency. Students who have applied but have not attended an institution and deceased students do not come under FERPA guidelines.

Parents of students termed as “dependent” for income tax purposes may have access to the student’s education records. A copy of the parent’s most recent federal income tax return, where the parents declared the student as a dependent, must be submitted to the Enrollment Services Office to document dependency.

### **What are education records?**

With certain exceptions, an education record is any record (1) from which a student can be personally identified and (2) which is maintained by the College. A student has the right of access to these records.

Education records include any records in whatever medium (handwritten, print, magnetic tape, film, diskette, etc.) that are in the possession of any school official. This includes transcripts or other records obtained from a school in which a student was previously enrolled.

### **What is not included in an education record?**

- Sole possession records or private notes held by school officials that are not accessible or released to other personnel. (If the notes are shared with anyone else, including a temporary substitute instructor or a staff member, they are no longer “sole possession notes” and may be subject to student review.)
- Law enforcement or campus security records that are solely for law enforcement purposes and maintained solely by the law enforcement unit.
- Records relating to individuals who are employed by the institution (unless contingent upon attendance).
- Records relating to treatment provided by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional and disclosed only to individuals providing treatment.
- Records of an institution that contain only information about an individual obtained after that person is no longer a student at that institution, i.e., alumni records.

### **What is directory information?**

Institutions may disclose information on a student without violating FERPA if it has designated that information as “directory information.” At Fox Valley Technical College (FVTC), this includes a student’s:

- Name
- Address
- FVTC email address
- Telephone number
- Major field of study
- Dates of attendance
- Current enrollment status (full-time/part-time)
- Class standing
- Receipt or non-receipt of a degree
- Academic awards received (dean’s list, honor roll)

Students who do not wish for their directory information to be released must indicate their intentions by turning in a *Request to Prevent Disclosure of Directory Information* form to the registrar in the Enrollment Services Office (E111). Due to current federal regulations, international student directory information is still available for review by Immigration and Customs enforcement officials or contractors even if they have indicated that they do not want that information released.

### **How does a student authorize release of their education record in the form of an academic transcript?**

Students must authorize the release of their transcript by written request with signature on an FVTC *Consent for the Release of Records* form or by completing and signing a transcript request form available in the Enrollment Services. There is a \$5.00 fee for transcripts. The receipt of a written request with signature to release an education record via fax is permissible. It is recommended that the student dates the expiration of their records release no further out than one year, but ultimately the expiration date is up to the student. In addition, a notarized power of attorney is sufficient for records release so long as the date is less than four years old. In any case, a signed release form from FVTC is the preferred method of granting access to education records by the student.

### **Who may have access to student information?**

- The student and any outside party who has the student’s written request.
- School officials (as defined by the College) who have legitimate educational interests.
- A person in response to a lawfully issued subpoena or court order, as long as the College makes a reasonable attempt to notify the student first. Normally the College will comply with a subpoena after two weeks have elapsed from the day the subpoena was received.

### **When is the student’s consent not required to disclose information?**

When the disclosure is:

- To school officials (defined in policy) who have a legitimate educational interest

- To federal, state, and local authorities involving an audit or evaluation of compliance with educational programs
- In connection with financial aid; this includes veterans' benefits
- To organizations conducting studies for or on behalf of educational institutions
- To accrediting organizations
- To comply with a judicial order or subpoena
- In a health or safety emergency
- Releasing directory information
- Releasing the results of a disciplinary hearing to an alleged victim of a crime of violence

### **How will increasing technology impact FERPA on our campus?**

The use of computerized record-keeping systems is increasing at a fast pace. We can anticipate that the distribution of electronic data will eventually replace most paper documents and provide much information about students to school officials through desktop terminals. It is the responsibility of each school official to understand their legal responsibilities under FERPA. The same principles of confidentiality that apply to paper records also apply to electronic data.

### **When do FERPA rights begin?**

A FERPA-related College education record begins for a student when he or she becomes 18 or enrolls in a higher education institution at any age.

### **Student Workers and Education Records**

When anyone is hired as a student worker, they must complete and sign the enclosed *Student Worker Statement of FERPA Understanding*. Student workers must be aware that any willful or unauthorized disclosure of personally identifiable data may subject them to criminal or civil liability and result in disciplinary action including termination. Student worker access to education records must be limited to those with which they must work in order to accomplish an assigned task. Any additional accessing of student records will make them subject to disciplinary action.

### **International Student Data and FERPA**

Immigration and Customs Enforcement (ICE) has broad, independent authority under the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), as amended, (and does not need to request directory information) to receive the following information on foreign students and exchange program participants: a) the identity and current address in the United States of the alien; b) the non-immigrant classification of the alien and the date on which a visa under the classification was issued or extended or the date on which a change to such classification was approved by the Attorney General; c) in the case of a student at an approved institution of higher education, or other educational institution, the current academic status of the alien, including whether the alien is maintaining status as a full-time student, or in the case of a participant in a designated exchange visitor program, whether the alien is satisfying the terms and conditions of the program; d) in the case of a student at an approved institution of higher education, or other educational institution, any disciplinary action taken by the institution against the alien as a result of the alien's being convicted of a crime, or, in the case of a participant in a designated exchange visitor program, any change in the alien's participation as a result of the alien's being convicted of a crime; e) the date of entry and port of entry; f) the date of the alien's

enrollment in an approved institution of higher education, other approved educational institution, or designated exchange visitor program in the United States; g) the degree program, if applicable, and field of study; and, h) the date of the alien's termination of enrollment and the reason for such termination (including graduation, disciplinary action, and failure to re-enroll).

The ICE regulations further specify that: “an approved school must keep records containing certain specific information and documents relating to each F-1 or M-1 student to whom it has issued a Form I-20A or I-20M while the student is attending the school and until the school notifies the Service,...that the student is not pursuing a full course of study...the designated school official must make the information and documents required by this paragraph available to and furnish them to any ICE officer upon request. The information and documents that the school must keep on each student are as follows:

- Name
- Date and place of birth
- Country of citizenship
- Current address where the student and his or her dependents physically reside. In the event the student or his or her dependents reside on or off campus and cannot receive mail at that location, the school may provide a mailing address.
- The student's current academic status
- Date of commencement of studies
- Degree program and field of study
- Whether the student has been certified for practical training, and the beginning and end dates of certification
- Termination date and reason, if known
- The documents referred to in paragraph (k) of this section
- The number of credits completed each semester
- A photocopy of the student's I-20 ID Copy

FERPA does not prohibit the nonconsensual release to ICE of the alien's field of study, degree program, number of credits, and other items of information enumerated in 8 C.F.R. 214.3(g), as amended by 67 Fed. Reg. 76256 (December 11, 2002).

**Related forms:**

Consent for the Release of Records

Student Worker Statement of FERPA Understanding

Request to Prevent Disclosure of Directory Information

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