

Student Education Records

Introduction

The University recognizes the privacy interests of its students and the need to protect the confidentiality of student records. This Policy describes how the University manages student education records in compliance with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g) ("FERPA") and its implementing regulations (34 CFR 99) and summarizes a student's rights under FERPA with respect to his or her education records at the University.

The Provost has overall responsibility for implementing, monitoring, and enforcing the provisions of this Policy. The Director of Student Services, the Executive Vice President, and the Vice President for Student Affairs also have specific responsibilities for implementing, monitoring, and enforcing this Policy.

Definitions

Directory information is information contained in an education record that would not generally be considered harmful or an invasion of privacy if disclosed. The information that the University designates as directory information is described more fully in this Policy.

Disclosure is to permit access to or the release, transfer, or other communication of personally identifiable information contained in education records by any means (including oral, written, or electronic means) to any party, except the party that provided or created the record.

Education records are records that are (1) directly related to a student; and (2) maintained by the University or by a party acting for the University. Education records do not include:

- Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.
- Records maintained by the Boston College Police Department or other law enforcement unit of the University that are created and maintained only by that law enforcement unit for a law enforcement purpose.
- Records relating to an individual who is employed by the University that (1) are made and maintained in the normal course of business; (2) relate exclusively to the individual in that individual's capacity as an employee; and (3) are not available for use for any other purpose. Records relating to an individual in attendance at the University who is employed as a result of his or her status as a student are education records and are not excepted.

- Treatment records, which are records that are (1) made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional capacity or assisting in a paraprofessional capacity; (2) made, maintained, or used only in connection with treatment of the student; and (3) disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction.
- Records created or received by the University after the person is no longer in attendance at the University and that are not directly related to the person's attendance.

For purposes of this Policy, a University official has a ***legitimate educational interest*** in access to information when that information is appropriate for use in connection with: performing a task that is related to the student's education; providing a service or benefit relating to the student or student's family, such as housing, health care, counseling, job placement, or financial aid; performing a task related to the discipline of a student; maintaining the safety and security of the campus; or otherwise performing a task related to the effective functioning of the University.

Parent includes a parent, guardian or an individual acting as a parent in the absence of a parent or a guardian.

Personally identifiable information is information that includes, but is not limited to:

- The student's name;
- The name of the student's parent or other family member;
- The address of the student or student's family;
- A personal identifier, such as the student's social security number or biometric record;
- Other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
- Other information that, alone or in combination, is linked or linkable to a specific student and that would allow a reasonable person in the University community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; and
- Information requested by a person who the University reasonably believes knows the identity of the student to whom the education record relates.

Record is any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.

Student is any individual who is or has been in attendance at the University. For purposes of this Policy, alumni are students, but applicants who fail to gain admission and nonmatriculated students are not.

University official is a person within the University who has legitimate educational interests in information in an education record. University officials may include individuals employed by the University in an administrative, supervisory, academic, research, or support staff position (including law enforcement unit personnel and health staff); members of the Board of Trustees; and students serving on official committees, such as disciplinary or grievance committees, or assisting other University officials in performing their tasks.

University official may also be a contractor, consultant, volunteer or other outside party to whom the University has outsourced an institutional service or function that would ordinarily be performed by University employees, provided that no disclosure of education records to any such outside university official may occur unless it is in compliance with the terms and conditions of this Policy.

Disclosures of Education Records

1. Disclosures Within the University

Each office within the University that maintains education records is responsible for developing internal operating procedures pertaining to those records that comply with this Policy. This Policy establishes minimal requirements for compliance, and is applicable to all areas of the University.

Except as permitted by FERPA and provided in this Policy, the University does not disclose personally identifiable information from education records to persons other than the student in question and University officials who have a legitimate educational interest. Members of the University community are not to access education records for any other purpose, including for personal reasons or for the purpose of obtaining information that will be disclosed subsequently to third parties.

Every person at the University with access to education records must use reasonable efforts to ensure that the records are made available only to the student in question and University officials who have legitimate educational interests in them. These efforts must include making reasonable efforts to identify and authenticate the identity of the person before making a disclosure and limiting the information disclosed to what is necessary in the circumstances. Members of the University community should be particularly aware of the obligation to protect the security and confidentiality of education records that are transmitted or maintained in electronic form (including electronic mail). University officials shall abide by and comply with any technological or administrative access controls established by the University or their department, as well as all other University policies and procedures that are applicable to student records, including the [Data Security Policy](#) and the [Use of University Technological and Information Resources Policy](#). Faculty members must protect the confidentiality of social security numbers, student identification numbers, and grades and shall not post class lists or grade sheets, unless the grade sheet lists students randomly and identifies students by an anonymous code number only. Graded papers are to be returned directly to the student.

2. Directory Information

Except as otherwise provided under this Policy, the University may disclose directory information to third parties without a student's consent. The University designates the following information as directory information: name; term, home, local, and electronic mail addresses; telephone number(s); photograph(s); school of enrollment and enrollment status; class level and anticipated date of graduation, major, dates of attendance; degrees, honors and awards received; most recent previous educational agency or institution attended; participation in officially recognized activities and sports; weight and height of members of athletic teams; and other similar information. Directory information does not include: ethnicity, gender, nationality, race, religious affiliation, social security number, student identification number, course enrollment information or course schedule.

A student can prevent the public release of directory information, including verification of enrollment, and may select which directory information is shared in the Boston College community directory and the public directory. To make these selections, students must visit the Agora Portal and choose privacy preferences.

3. Disclosure of Records to Third Parties

FERPA permits, but does not require, the University to disclose personally identifiable information from education records to certain third parties without the student's consent, provided that any requirements of FERPA and this Policy are met. Before making any disclosure of personally identifiable information from education records to any party, the University (and any individual acting on behalf of the University) must use reasonable methods to identify and authenticate the identity of that party.

The FERPA regulations include a number of other limitations with respect to permitted disclosures and in most cases a University official should check with the Office of the General Counsel or the Office of the Director of Student Services before making a disclosure to any outside party. Disclosures of personally identifiable information may be made to the following persons:

- Outside parties who meet the definition of University officials as defined above, provided that when making any disclosure of education records to an outside University official, the University shall take steps to ensure, through entering into an agreement with the party and taking other appropriate measures, that the outside party: (i) is under the direct control of the University with respect to the use and maintenance of education records and (ii) agrees not to disclose the education records and to limit their use to the purposes for which the University makes the disclosure in accordance with FERPA and this Policy;
- Officials of educational institutions to which a student is enrolled or seeking admission;
- Authorized representatives of the Comptroller General of the United States, Secretary of Education, U. S. Attorney General (for law enforcement purposes only), and state and local educational authorities, if the disclosure is in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of or compliance with federal legal requirements that relate to those programs; provided in most cases that the information must be

protected in a manner that does not permit the personal identification of individuals by anyone other than the applicable agency and must be destroyed when no longer needed for the purpose they were disclosed;

- Under certain circumstances as permitted by the FERPA regulations, state and local officials or authorities in connection with the state's juvenile justice system;
- Organizations conducting studies for, or on behalf of, the University to develop, validate, and administer predictive tests, to administer student aid programs, or to improve instruction, provided that the University has a written agreement with the organization that complies with the relevant FERPA regulations;
- Accrediting organizations carrying out their accrediting functions;
- The parents of a student who is a dependent for income tax purposes;
- Persons in compliance with a judicial order or lawfully issued subpoena, provided that the University makes a reasonable effort to notify a student at least seven days prior to disclosure of the education record (absent a court order or other applicable law prohibiting such notification);
- A court in connection with a legal action brought by a student against the University or brought by the University against a parent or student;
- Appropriate persons in a health or safety emergency if the University determines, in light of the circumstances and information available at the time, that knowledge of the information is necessary to protect the health or safety of the student or other individuals;
- Persons or organizations providing financial aid to a student (not including parents) or making decisions with respect to the student's financial aid;
- Parents regarding the student's violation of any federal, state, or local law, or of any University policy or rule governing the use or possession of alcohol or a controlled substance, if the student is under the age of 21;
- A victim of an alleged perpetrator of a crime of violence or a nonforcible sex offense, provided that the disclosure may include only the final results of the disciplinary proceeding conducted by the University with respect to that alleged crime or offense;
- The public regarding the final results of a University disciplinary proceeding, only if the student is an alleged perpetrator of a crime of violence or nonforcible sex offense; and, with respect to the allegation made against him or her, the student has committed a violation of the University's rules or policies, provided that the disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the University against the student;
- The public if the disclosure concerns sex offenders and other individuals required to register under the Violent Crime Control and Law Enforcement Act of 1994 and the information was provided to the University under this law;
- The Attorney General of the United States or his or her designee in response to an ex parte order concerning investigations or prosecutions of certain offenses under Federal anti-terrorism laws;

- The U.S. Citizenship and Immigration Services (USCIS) and/or Immigration and Customs Enforcement (ICE) for purposes of the Student and Exchange Visitor Information System (SEVIS);
- Military recruiters who request "student recruiting information" for recruiting purposes only. Student recruiting information consists of a student's name, address, telephone listing, age (or year of birth), place of birth, level of education, and major(s);
- The Internal Revenue Service for purposes of complying with the Taxpayer Relief Act of 1997; and
- Veterans Administration officials in response to requests related to Veterans Administration programs.

Absent a legal requirement to make a disclosure (as, for example, in the case of a lawfully issued subpoena), any disclosure of education records to a third party without a student's consent is at the discretion of the University. It is generally the University's practice not to make disclosures from a student's education records involving academic matters (other than directory information) to parents without the student's written consent.

4. Disclosure of Records with Consent

With the exception of the permitted disclosures described above, the University may make disclosures of personally identifiable information from an education record only if the student consents in writing.

The written consent must be signed and dated by the student and must include the following:

- a. A description of the record for which disclosure is permitted;
- b. The purpose for which disclosure is being permitted; and
- c. The person or class of persons to whom the disclosure may be made.

When making a disclosure with a student's written consent, the University shall include with the disclosure a notice stating that the disclosure is for the purpose permitted only, and that redisclosure by the party receiving the information is prohibited by FERPA. The University shall provide the student, upon request, with a copy of the record disclosed.

Recordkeeping Requirements

University officials are required to maintain an access log for each education record in their custody. The access log is to be kept with the record of the student. The log is to contain suitable entries that include, for each request and for each disclosure, the names of the persons who have requested and obtained personally identifiable information from the education record, the interest that the person had in obtaining the information, and the date on which the request and/or disclosure was made.

It is not necessary to enter in the access log requests and disclosures made to a student, disclosures made pursuant to the written consent of a student, disclosures made to University officials for legitimate educational interests, or disclosures of directory information.

The access log is to be open to inspection by the student, University officials, and auditors examining the recordkeeping procedures of the University.

University officials responsible for the maintenance of education records are to maintain with those records any written requests to amend education records, any decision rendered in conjunction with a formal hearing to amend an education record, any statement by the student in connection with the request to amend the record, any and all written letters of consent to access by third parties given by the student, any court orders or subpoenas that direct access be granted to third parties, any written request from a third party for disclosure of information whether or not the request was granted, and any waiver of the right of access given by a student in connection with letters of recommendation (ordinarily, waivers of the right of access are to be attached to the letter of recommendation in question).

Student Access to Records

All students have the right to inspect and review their education records, other than the following records that may be contained in their files:

- Parents' financial records;
- Letters of recommendation given with an assurance of confidentiality and received by the University prior to January 1, 1975;
- Letters of recommendation to which a student has waived his or her right of access in writing;
- Information regarding other students; and
- Treatment records (though the student may have these records reviewed by a physician or other appropriate professional of the student's choice).

Letters of recommendation given under assurance of confidentiality, and containing a signed and dated waiver of the right of access, are to be removed temporarily from the student's education record if and when the record is made available to the student for review provided that the student, upon request, may be informed of the names of the people who have submitted such confidential letters.

Any student who wishes to inspect and review information contained in an education record maintained by any office of the University may, with proper identification, request access to the record from the office responsible for maintaining that record. Unless the circumstances require the existence of a formal request, an oral request may be honored. Whenever an office responsible for maintaining education records is unable to respond, the student may submit to the Office of Student Services, dean,

academic department head, or other appropriate official a written request that identifies the record he or she wishes to inspect.

The University official shall provide access within 45 days after the University receives the request, and shall notify the student of the time and place the record may be inspected. If the record is not maintained by the University official to whom the request is submitted, that official shall advise the student of the correct official to whom the request should be addressed.

If the keeper of the education record determines that a portion of the material sought is of a nature that should not be disclosed to the student, he or she shall notify the student that such information has been excluded from the record.

The review of an education record is to take place within the office responsible for maintaining the record, and in the presence of a staff member of that office. The staff member present at the time of the student's review shall, if he or she has the information, respond to a reasonable request for explanations and interpretations of the student's record.

If the student is unable to be present to inspect and review the records, the office shall provide the student with a copy of the records that may be released. The student must provide a signed written request that specifies the materials to be copied. The University is under no obligation to provide official copies of transcripts of students who have defaulted on college loans or who have not met their financial obligations to the institution.

Challenges to the Contents of Education Records

Any student who believes that information contained in his or her education record is inaccurate, misleading, or in violation of the student's privacy rights may request that the record be amended. The student shall write to the University official responsible for the record, clearly identifying the record he or she wants changed and specifying why it should be amended.

After receiving a request to amend a student record, the record keeper shall investigate the matter and attempt to resolve it on an informal basis. Within a reasonable time, he or she shall provide the student with a written notice of the University's response. If the University concludes that the record should not be amended as requested by the student, the notice will notify the student of his or her right to a hearing and provide information regarding the hearing process.

A student who wishes to commence a formal hearing must submit a written request for a hearing to the Executive Vice President. This request must identify the record to be amended, must summarize the reasons why the student believes the record should be amended, and should identify any evidence that the student intends to submit. Within a reasonable time following the receipt of the request for a hearing, the Executive Vice President shall notify the student of the names of three persons nominated by the Executive Vice President as Hearing Officers, and invite the student to select one of the three as the Hearing Officer for the case. No person having a direct interest in the outcome

of the hearing is to be nominated as a Hearing Officer. Within two days after receipt of the list of nominees, the student shall inform the Executive Vice President of the Hearing Officer that the student has selected.

The Hearing Officer shall set a hearing date, allowing a reasonable time for preparation of the case, and notify the student of the date, time and place of the hearing. The student may be assisted or represented by individuals of his or her choice at his or her own expense. If a student decides to be represented by an attorney, he or she must notify the Hearing Officer at least five days prior to the hearing. The University may be represented by the keeper of the record in question, or by the official responsible for initial preparation of that record, and/or by University counsel.

At the hearing, the Hearing Officer shall review the evidence presented by the student and the University, and may request oral or written argument. The Hearing Officer shall determine whether clear evidence exists that the record in question is inaccurate, misleading, or a violation of the student's privacy rights under FERPA and if so, how the record should be corrected. The Hearing Office shall submit a written report to the Executive Vice President as soon as possible following the hearing. The report shall summarize the facts found and state the Hearing Officer's recommendation. Within a reasonable period of time, the Executive Vice President shall notify the student and the Hearing Officer in writing of the University's decision, which is not subject to further appeal by the student.

If, after the hearing, the University declines to amend the record to the student's satisfaction, the University shall inform the student that he or she has the right to place in the record a statement setting forth the student's position relating to the contested record. The student's statement will be a permanent part of the education record and must be included when the University makes any disclosure of the contested record.

A student's right to request an amendment of education records under this Policy does not apply to a request to alter a grade, unless the student seeks to correct an error in the recording of the grade. Similarly, this process is not available as a means of collateral appeal of University decisions such as disciplinary actions.

Annual Notification of Rights

The Director of Student Services and the Vice President for Student Affairs are responsible for notifying students annually of their rights under FERPA. The notice must inform students of: (i) their right to inspect and review the student's education records and the procedure for exercising this right; (ii) their right to seek amendment of the education records that the student believes to be inaccurate, misleading, or a violation of the student's privacy rights and the procedure for exercising this right; (iii) their right to consent to the disclosure of personally identifiable information in the student's education records, except to the extent permitted under FERPA; (iv) their right to file a complaint with the U.S. Department of Education regarding an alleged violation of FERPA by the University; and (v) the University's definition of University official and what constitutes a legitimate educational interest.

Complaints of Violations

A student who believes that his or her rights under FERPA have been violated may file a written complaint with the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C. 20202-4605.

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