

### 3.10 THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

The acronym FERPA stands for the Family Educational Rights and Privacy Act (20 U.S.C. 1232g, 34CFR§99). Enacted by Congress in 1974, FERPA is sometimes referred to as the Buckley Amendment. FERPA requires faculty, staff, and administrative officers at CCBS to treat education records in a legally-specified manner, outlining procedures for providing student access to such record, procedures for maintaining the privacy of student records, and institutional penalties for violation of its stipulations.

FERPA requires that a student's education records be:

1. Disclosed *only* to persons who meet the strict definition of a school official who has a legitimate educational interest in the records (or others explicitly granted access under the law). Contact the Registrar's Office for a complete listing of these individuals.
2. Made available within 45 days of the student's written request for inspection and review.

A school official is defined as:

- A person employed by the college in an administrative, supervisory, academic, research, or support staff position.
- A student, alumnus, or other person who is serving on an official committee (e.g., disciplinary, grievance) or is assisting a school official in a task.
- A trustee or outside contractor (e.g., health or medical professional, attorney, auditor) acting as an agent for the college.

A school official has a legal right to know if a person defined as having a legitimate educational interest is:

1. Performing a task that is specified in his/her position or related to student discipline.
2. Providing a service or benefit related to a student/a student's family, or maintaining safety and security on campus.

An example of legitimate educational interest would be an advisor who needs to review a student's education record to determine what courses have been or need to be completed; this task is related to student advising. The advisor would *not* be authorized to view education records that are not relevant to the task at hand. *Curiosity does not qualify as a legal right to know.*

Those who receive student record information may use it only for the purpose specified. If a third party discloses personally-identifiable student information in violation of FERPA, the educational agency or institution which disclosed the information to the third party is prohibited from permitting access to education records to that third party for a period of not less than five years.

Parents have the right to expect confidentiality of certain types of information about them in student records and, under certain conditions, to gain access to information in student education records. *For purposes of FERPA, the college considers all students to be independent; this limits the student education record information that may be released to parents (without the student's specific written permission) to Directory Information only.*

The law does *not require* the release of education records to any party other than the student. Additional parties to whom education records *may* be released *without* written permission are:

1. Officials of another educational institution in which a student intends to enroll. The student should receive notification of the disclosure, unless the student initiated it.
2. Appropriate persons in connection with an emergency, if the knowledge of such information is necessary to protect the health/safety of the student or others.
3. Persons specified in a lawfully-served judicial order or subpoena, provided the college makes a reasonable effort to notify the student in advance of compliance (unless in the case of grand jury or other subpoenas which prohibit notification).
4. Parents of dependent students as defined in Section 152 of the Internal Revenue Code of 1954. A student must have indicated that either parent claimed him/her as a tax dependent on an Application for Admission submitted within 12 months of the request for student information. Otherwise, the parent must provide a copy of the most recently-required Federal Income Tax Return indicating that the student in question was claimed.
5. Employees working with an application for financial aid, with schools to which a student is applying, with federal and state government agencies and officials, with accrediting agencies, and with organizations conducting studies for or on behalf of educational agencies *if conducted so as not to permit the personal identification* of any individual student.

Student records include any and all records, in any medium, maintained by CCBS which are directly related to a student (or are personally-identifiable records or files). Although the term “student records” and “education records” are often used interchangeably, *they are distinguishable under FERPA*. The following student records are not considered education records and are *not* subject to FERPA protection:

- CCBS law enforcement records;
- Employment records when the employment is *not* connected to student status;
- Medical and mental health records used only for the treatment of the student (protected by other laws);
- Faculty and staff personal notes or records which are shared with substitutes (memory-jogger type records);
- Alumni records which do not relate to the person as a student;
- Application records of students not admitted to the college.

Written permission must be obtained from the student before releasing an education record, unless the request for release fits certain exceptions. The section entitled *Directory Information* summarizes these exceptions.