

ADMINISTRATIVE POLICY

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT COMPLIANCE

This policy pertains to employees and students.

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, seek to amend those records and limit the 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 receive federal aid administered by the Secretary of Education.

Student Rights

Students are afforded the following rights under FERPA:

- The right to inspect and review their education records within 45 days of the day the College receives a request for access. This right to inspect does not include the right to receive copies of this record. Students must submit written requests to the Enrollment Services Office and identify the record(s) they wish to inspect. The staff will make arrangements for access and notify the student of the time and place where the records may be inspected. A form to submit this request is available at www.fvtc.edu/forms.
- 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 they believe is inaccurate or misleading. The request must come to the Enrollment Services Office, in writing, and 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, in writing, of the decision and advise the student of their 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 which needs access to the educational records to fulfill the responsibilities of their professional role.
- 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 Avenue, SW
Washington, DC 20202-5920

Protection under FERPA

FERPA applies to the education records of all "eligible students." Eligible students are persons who are, or who have been, in attendance at FVTC, including students who have started any listed FVTC course. This includes (but is not limited to) students taking FVTC courses through their high school (regardless of age), community courses, courses through FVTC's Business and Industry Services, the National Criminal Justice Training Center, and traditional college-level courses. A student's FERPA rights begin on the first day of the first class for which a student has enrolled. FERPA does not apply to prospective students, applicants, or admitted students until they become enrolled students in attendance. FERPA guidelines do not apply to students who have applied but have not attended an institution and deceased students.

Educational Records

With certain exceptions, an education record is any record directly related to a student and maintained by the College or by a third party acting for the College. Included in educational records is personally identifiable information or PII. PII includes direct identifiers, such as a student's name or identification number, indirect identifiers, such as a student's date of birth, or other information that can be used to distinguish or trace an individual's identity directly or indirectly through linkages with additional information.

Education records include any records in whatever medium in possession of any school official. This includes transcripts or other records from a school where a student was previously enrolled.

Under FERPA, the following documents are not considered to be educational records:

- 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 employed by the institution (unless contingent upon attendance).
- Treatment Records relating to treatment provided by a physician, psychiatrist, psychologist, mental health therapist, or other recognized professional or paraprofessional employed by the College 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.

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
- Student/User ID
- College-issued email address

- Program of Study
- Dates of attendance
- Degree(s) awarded and dates
- Current enrollment status (full-time/part-time/no enrollment)
- Academic awards received (e.g., Dean's List, graduation honors)
- Participation in College-Sponsored co-curricular activities (e.g., DECA, Phi Theta Kappa)

Limited Directory information is student information that FVTC may limit the disclosure to specific parties for specific purposes or both. While legitimate educational interest is not required for access, this information is limited to FVTC students, staff, and faculty. The following information is Limited Directory information:

- Phone number
- Home and Mailing address

Students who do not wish for their directory information to be released must indicate their intentions by submitting a [Request to Prevent Disclosure of Directory Information](#) form to the Enrollment Services Office or by filling out the form at www.fvtc.edu/forms. 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.

Disclosure of Educational Records

Students must authorize the release of any part of their educational records, including their transcript. Even with prior written consent by the student, the College is not required to disclose educational records and PII to third parties.

Students may request that a copy of their transcript be sent to themselves or a third party by accessing their MyFVTC student account or using FVTC's third-party transcript servicer through the FVTC website. An administrative fee may be applied.

Students also have the option to complete and sign a [Request for the Release of Confidential Information Form](#) available in Enrollment Services and at <http://www.fvtc.edu/forms>. Receiving a written request with a signature to release an education record via a student's FVTC email is permissible. 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.

The following outside parties may have access to a student's educational records with proper documentation:

- The student and any outside party who has the student's written request
- FVTC is allowed, but not required to disclose any PII from education records to parents without the eligible student's consent if the student is a "dependent student" as defined in Section 152 of the Internal Revenue Code. The parent must provide the College with their most recent income tax return showing that the eligible student is a dependent.
- 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 unless the subpoena specifically orders that notification not be made or a federal grand jury subpoena. Typically, the College will comply with a subpoena after ten business days have elapsed from the day the subpoena was received.

School Officials

FERPA allows "school officials," including faculty and staff within the College, to access PII from educational records without Consent, provided the school has determined that they have a "legitimate educational interest" in the information. At FVTC, a school official has a "legitimate educational interest" if the official needs to review an education record to fulfill their professional responsibility.

Under the "school official" exception, FERPA permits the disclosure of education records to other parties with whom the College has outsourced institutional services or functions. To be considered under this function, the party must 1) Perform an institutional service or function for which the College would otherwise use employees; 2) Is under the direct control of the College with respect to the use and maintenance of educational records; 3) Is subject to the requirements in FERPA that PII from education records may be used only for the purposes for which the disclosure was made, and which govern the redisclosure of PII from educational records; and 4) Meet the criteria specified from the school's annual notification for FERPA rights for being a school official with a legitimate educational interest in the educational records. These include:

- Volunteers such as a person serving on the Board of Trustees;
- A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing their tasks;
- A person or company with whom the College has contracted. Examples include:
 - Software companies (e.g., learning management software, student information system, transcript service)
 - Bookstore vendor
 - Attorney
 - Consultant
 - Contractor

Written Consent to release information is not required when the disclosure is:

- To school officials (as defined in this 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

Electronic Student Records

The same principles of confidentiality that apply to paper records also apply to electronic data.

FVTC uses encryption when using electronic data to eliminate unauthorized access while the document is in transit.

Employees and Education Records

When a faculty, staff, or student worker is hired, they must electronically acknowledge that they have read and understood the FERPA standards. All employees must be aware that any willful or unauthorized disclosure of PII or other educational records may subject them to criminal or civil liability and result in disciplinary action, including termination. All employee access to education records must be limited to those necessary to complete their professional assignment. Any other access to student records will be 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 their dependents physically reside. In the event the student or their 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 associated with the requirements for admission, extension, and maintenance of status
- 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).

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