

CONFIDENTIALITY POLICIES

By Federal law and College policy, access to and release of student education records are governed by strict standards.

The Family Educational Rights and Privacy Act (FERPA) (20 U.S.C. § 1232g; 34 CFR Part 99) is a Federal law that protects the privacy of student education records. FERPA affords students attending the College certain rights with respect to their education records. They are:

1. The right to inspect and review the student's education records maintained by the College within forty five days of the day the College receives a request for access.

Students should submit to the Registrar, Dean, head of the academic department, or other appropriate official, written requests that identify the record(s) they wish to inspect.

The College official will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the College official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

2. The right to request that the College amend the student's education records that the student believes is inaccurate or misleading. Students may ask the College to amend a record that they believe is inaccurate or misleading. They should write the College official responsible for the record, 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 procedures will be provided to the student when notified of the right to a hearing. After the hearing, if the College still decides not to amend the record, the student has the right to place a statement with the record setting forth his or her view about the contested information.

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

Personally identifiable information (that is, information that would make the student's identity easily traceable) includes direct identifiers such as social security number (SSN), biometric records (a measurable biological or behavioral characteristic such as fingerprint or handwriting) as well as indirect identifiers such as the name of the student's parent or family members, mother's maiden name, and date and place of birth, that would allow a reasonable person in the community to identify the student with reasonable certainty. Generally, the College must have written permission from the student in order to release any information from a student's education record. However, FERPA authorizes disclosure of those records, without consent, to the following parties or under the following conditions (34 CFR § 99.31):

College officials with legitimate educational interest. 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 public safety and security 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 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.

Additionally, education records may be released to contractors, consultants, volunteers, and other outside service providers used by the College to perform institutional services and functions that it would otherwise use employees of the College to perform.

The College must use "reasonable methods" to ensure that the school official obtains access to only that education records—paper or electronic—in which they have legitimate educational interests and the burden falls to the institution to justify access if questioned.

Other Colleges, Universities and/or schools to which a student is transferring. The authority to disclose or transfer education records to a student's new school does not cease automatically the moment a student has enrolled in the new school and continues to be enrolled at any future point in time so long as the disclosure is for purposes related to the student's enrollment or transfer. This means that a school may disclose any records or information, including health and disciplinary records, which the school could have

disclosed when the student was seeking or intending to enroll in the new school.

Specified officials for audit or evaluation purposes. The regulations clarify that educational agencies and institutions may provide personally identifiable information within education records to state auditors without prior consent without violating FERPA.

Appropriate parties in connection with financial aid to a student.

Organizations conducting certain studies for or on behalf of the College. The final regulations require an institution using this exception to enter into a written agreement with the recipient organization that specifies the purposes of the study.

The written agreement must specify that the information from education records may only be used to meet the purposes of the study stated in the written agreement and must contain the current requirements in §99.31(a) (6) on re-disclosure and destruction of information, as described above. The written agreement must require the organization to conduct the study in a manner that does not permit personal identification of parents and students by anyone other than representatives of the organization with legitimate interests. The final regulations also require that the written agreement must specify the purpose, scope, and duration of the student and the information to be disclosed; requires the organization to destroy or return all personally identifiable information when no longer needed for the study, and must specify the time period during which the organization must either destroy or return the information.

Accrediting organizations.

To comply with judicial order or lawfully issued subpoena. The institution may disclose education records in response to a judicial order, a lawfully issued subpoena, or an order issued by the US Attorney General under the USA Patriot Act without consent or notice to the student that it would otherwise be required under the regulations.

Appropriate officials in cases of health and safety emergencies. In making a determination under the health and safety exception, which allows educational institutions to disclose education records in the case of a health or safety emergency, institutions are now allowed to exercise judgment as follows:

An institution may take into account the “totality of the circumstances” pertaining to a threat to the safety or health of a student or other individuals.

If an institution determines there is an “articulable and significant threat” to the health or safety of a student or others, an institution may disclose information from education records to third parties, whose knowledge of the information is necessary to protect them, including the health and safety of the student or others.

If, based on the information available at the time, there is a rational basis for that determination at the time the decision is made.

A separate change was made to another section of the health and safety emergency provision to allow disclosure of personally identifiable information from an education record to “appropriate parties,” including parents of a student, if knowledge of the information is necessary to protect the health and safety of the student or other individuals. Additionally, the Department of Education will require that the institution involved in a disclosure under these circumstances record the nature of the threat and the parties to whom it disclosed information under the “health and safety” emergency section.

FERPA also allows disclosure to parents if the student has violated any Federal, State, or local law, or any rule or policy of the institution, governing the use or possession of alcohol or a controlled substance, if the institution determines that the student has committed a disciplinary violation regarding the use or possession and the student is under twenty-one at the time of the disclosure.

State and local authorities; within a juvenile justice system; pursuant to specific State law.

To comply with the Campus Sex Crimes Prevention Act. To conform with the requirements of the Campus Sex Crimes Prevention Act, the regulations permit campus officials to release information they received from a state community notification program about a student registered as a sex offender in the State. This is a new exception to the consent requirement to allow educational agencies to disclose information concerning registered sex offenders provided under state sex offender programs.

Additional Points on FERPA Regulations and Pertinent Exceptions.

The regulations clarify that the College may disclose educational records to the student’s parents without student consent if the student is a dependent for Federal Income Tax purposes.

Definition of Education Records. “Education records” are currently defined as records that are directly related to a “student” and maintained by an “educational agency or institution” or by a party acting for the agency or institution. (The term “student” excludes individuals who have not been in attendance at the agency or institution.) The regulations clarify that with respect to former students, the term education records excludes records that are created or received after an individual is no longer a student in attendance and are not directly related to the individual’s attendance as a student. An example of a record excluded from the definition would be alumni services.

Directory Information. “Directory information” may be disclosed without the student’s written consent. Schools may disclose, without consent, “directory information” such as a student’s name, address, telephone number, date and place of birth, honors and awards and dates of attendance. However, schools must tell the student about directory information and allow students a reasonable amount of time to request that the school not disclose directory information about them; in other words, permit the students the opportunity to opt out before making such disclosures. The regulations specifically provide that an institution may not designate as directory information a student’s Social Security Number (SSN) or other student ID number. However, the directory information may include a student’s user ID or other unique identifier used by the student to access or communicate in electronic systems, but only if the electronic identifier cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the student’s identity, such as a personal identification number (PIN), password, or other factor known or possessed only by the student.

The regulations allow an agency to continue to honor any valid request to opt out of directory information disclosures while the individual is still a student until rescinded.

Identification and authentication of identity. Requires the use of reasonable methods to identify and authenticate the identity of students, parents, school officials, and any other parties to whom personally identifiable information is disclosed.

The right to file a complaint with the U.S. Department of Education concerning alleged failures by Dominican 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, D.C., 20202-5920.

For a complete description of these and all FERPA regulations, please visit:

<http://www.ed.gov/policy/gen/guid/fpc/index.html> which is a link to Family Policy Compliance Office in the Department of Education with additional links to the December 2008 section-by-section analysis of the FERPA Final Rule, and to the Final FERPA Regulations (December 9, 2008), effective January 8, 2009.