FERPA: Family Education Rights and Privacy Act

What is FERPA?

• The Family Educational Rights and Privacy Act of 1974 (FERPA), as amended, is a federal law that protects the privacy of student education records. It is also known as the Buckley Amendment.

• FERPA is designed to:
  – protect the privacy of education records,
  – allow a student to review and, if necessary, seek to amend records,
  – limit the disclosure of information from academic records without the student’s consent.

• FERPA is implemented by the Family Policy Compliance Office (FPCO).
Who must comply with FERPA?

- Any educational institution or educational agency that receives funds under any program which is administered by the U.S. Secretary of Education must comply with FERPA.

- This includes the College of Charleston.
What does FERPA require for postsecondary institutions to be in compliance?

- An annual notice to students which must take a form that is “reasonably likely” to notify students. The College of Charleston notifies students annually by email, on the FERPA website maintained by the Office of the Registrar, and in the Graduate and Undergraduate catalogs.

- Protect students’ rights to inspect/review their education records.

- Protect students’ rights to request to amend their education record.

- Protect students’ rights to limit disclosure of their “personally identifiable information.”

- Ensure that third parties do not re-disclose “personally identifiable information.”

- Keep records of requests for and disclosure of student records.
When Do FERPA Rights Begin?

- The federal government has delineated that student FERPA rights accrue when the following events occur, with a student, for FERPA purposes, being defined as follows:

- When a student reaches 18 years of age or attends a postsecondary institution, they become an "eligible student," and all rights under FERPA transfer from the student’s parents/guardians to the student. FERPA regulations define “student” as any individual who is or has been in attendance at an educational agency or institution and regarding whom the agency or institution maintains education records. Attendance begins the first day the student attends class. The regulations provide that attendance includes, but is not limited to, attendance in person or by correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom.

- FERPA does not apply to the records of applicants who have been denied acceptance or, if accepted, do not attend.
Student FERPA Rights

The Family Educational Rights and Privacy Act (FERPA) affords eligible students certain rights with respect to their education records. (An “eligible student” under FERPA is a student who is 18 years of age or older or who attends a postsecondary institution at any age.) These rights include (see Annual Notification of FERPA Rights for Students for details on each right):

• The right to inspect and review the student’s education records within 45 days of the day the College of Charleston receives a request for access to those records.

• The right to request an amendment to the student’s education records that the student believes is inaccurate, misleading, or otherwise in violation of the student’s privacy rights under FERPA.

• The right to provide written consent before the College of Charleston discloses personally identifiable information (PII) from the student’s education records, except to the extent that FERPA authorizes disclosure without student consent.

• The right to file a complaint with the U.S. Department of Education Family Policy Compliance Office concerning alleged failures by the College of Charleston to comply with the requirements of FERPA.
Student FERPA Rights Continued

In accordance with regulations issued under FERPA, the College of Charleston provides an annual notification to our enrolled students of their rights under FERPA. This Annual Notification of FERPA Rights for Students is emailed to students and can be found on the Office of the Registrar’s web page: http://registrar.cofc.edu/ferpa/index.php
What About Parents/Guardians?

Parents/Guardians should understand that their rights transfer to the student when he or she reaches the age of 18 or attends a postsecondary school at any age. The parent is now considered to be a “third party.”

At postsecondary institutions, parents do not have right of access to education records of students unless certain conditions are met:

- The student has signed a Student FERPA Consent Form for their parent(s)/guardian(s) to receive personally identifiable, non-directory information. The institution has the right to give the parents Directory Information without the student’s permission, unless the student has placed a Directory Information restriction.

- The parent(s) claims the student as a tax dependent (as defined in section 152 of the Internal Revenue Code of 1986) on the most recent year’s annual income tax return, fills out the required document (FERPA Parent Verification of Dependency and Request for Educational Record) and provides the required tax form documentation.
What are Education Records?

- Education Records are any records (in handwriting, print, tapes, film, computer or other medium) maintained by the College of Charleston or an agent of the College of Charleston which are directly related to a student **except:**

  - A personal record kept by a faculty or staff member if it is kept in the sole possession of the maker of the record, is not accessible or revealed to any other person except a temporary substitute for the maker of the record and is not used for purposes other than a memory or reference tool.

  - Records created and maintained by the College of Charleston Department of Public Safety for public safety purposes.

  - An employment record of an individual whose employment is not contingent on the fact that he or she is a student.

  - Records made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional if the records are used only for treatment of a student and made available only to those persons providing the treatment.

  - Alumni records which contain information about a student after he or she is no longer in attendance at the College of Charleston and which do not relate to the person as a student.

  - Peer-graded papers which have not yet been collected and graded by faculty.
Who are school officials?

- School officials are individuals or groups providing a necessary service for or on behalf of the institution [that is, faculty, staff, administration, coaches, Board of Trustees, Clearinghouse, legal counsel, etc.—any individuals providing such services]. The definition of school officials has more recently been expanded to include contractors, consultants, volunteers, and other outside parties to whom the institution has outsourced services, provided the College has determined that they have a legitimate educational interest and have agreed not to re-disclose.

- Under FERPA, school officials have no inherent rights re: access of education records; any access to student education records is based upon a “need to know” by a designated official in order to carry out their responsibilities for the educational best interest of the student.

- School officials are equally responsible for following FERPA regulations; they may not re-disclose student education records to others unless in accordance with FERPA.
When can Education Records be released to third parties?

- Education records cannot generally be released to third parties without the student’s written, signed approval. Electronic signatures have recently been approved as consent to disclose education records to third parties if the requestor’s identity can be authenticated as the source of the electronic consent. The electronic consent must also indicate the student’s approval of the information contained in the education record as well as any restrictions to the release of the information.
Student FERPA Consent Form

- Disclosure of a student's confidential education records requires prior written consent of the student (unless disclosure is permitted under certain exceptions to FERPA set forth in Section 99.31 of the FERPA Regulations). A student's written consent may be obtained by using the Student FERPA Consent Form.

- Use the Consent Form when a department or unit on campus requests disclosure of a student's education records or when a student requests disclosure of their education records to a specified third party.

- If the student wishes to release their records from more than one Office (e.g., the Office of the Registrar and the Office of Student Affairs) then a separate form will need to be presented by the student and kept on file in each Office.

- The form can be signed by the student to authorize a one-time release or it can be signed to allow a standing order for release until official revocation in the department where the Consent Form was filed. The student indicates on the form the exact records which can be released by which office and to whom they may be released.
Exceptions to the rule requiring student consent include the release:

- To other school officials with a demonstrated “need to know” and legitimate educational interest. Institutions must use “reasonable methods”, such as controlled logins and designated levels of security access, to ensure that “school officials” are given access only to those records for which they have a legitimate “need to know.”

- For lawfully issued subpoenas (after FERPA guidelines for notification are followed and documented.)

- For requests for “Directory Information”, unless a “Directory Information Opt-Out” form is on file for Directory Information. (More about Directory Information later in this overview.)

- To authorized representatives of specified government agencies in connection with an audit or evaluation of federal or state supported education programs.

- To appropriate parties in connection with financial aid to a student.

- To agents acting on behalf of the College.
Exceptions to the rule requiring student consent include the release: (continued)

- To organizations conducting studies on behalf of the College.
- To accrediting organizations for accrediting purposes.
- To anyone who requests the final results of a disciplinary hearing against an alleged perpetrator of a crime of violence or sex offense.
- To military recruiters who request “Student Recruiting Information” in compliance with the Solomon Amendment.
- To the Internal Revenue Service for purposes of complying with the Taxpayer Relief Act of 1997.
- To authorized representatives of the Department of Veteran Affairs.
Exceptions to the rule requiring student consent include the release: (continued)

- To parents/legal guardians (if a child is under 21) when the child is found to have violated the alcohol and/or drug policy of the institution or if there is a court order or subpoena.

- To appropriate parties in connection with an immediate and imminent emergency if knowledge of the information is necessary to protect the health or safety of the student or other individuals.

- To the Immigration and Customs Enforcement (ICE) Agency or to the Department of Homeland Security (DHS).

- To another educational institution to which a student has transferred in the case where information becomes available that would benefit the transfer institution, the original institution can share it as a “legitimate educational interest.”
What is Directory Information?

- Directory Information is education records that FERPA regulations have determined to be “neutral” or not necessarily harmful or be an invasion of privacy if released to third parties inside or outside the institution.

- In order to release Directory Information, institutions must specify what their Directory Information includes. At the College of Charleston, it includes: student name, mailing address, College-issued e-mail address, image/photograph of student (includes images from college yearbooks, CofC publications and other official CofC marketing media only), major field(s) of study, class standing/Grade level (e.g. sophomore, junior, etc.), dates of attendance, degree(s) received, awards and honors received, enrollment status (e.g. undergraduate, graduate, full-time or part-time).

- Students have the right to restrict the release of Directory Information to third parties outside the institution but these restrictions do not pertain to school officials with a demonstrated “need to know” having access to student education records. Students do not have the right to be anonymous in the classroom or on class lists.
What is Directory Information? *(continued)*

- Students who do not wish the College to disclose Directory Information from their education records without prior written consent must submit to the Office of the Registrar a request to have this information withheld. This request can be made electronically via Banner Self-Service in MyCharleston (Banner Self-Service > Student > Release of Directory Information) or by completing a Directory Information Opt-Out form.

- Institutions with specified Directory Information are not required to release that information but may do so arbitrarily. South Carolina FOIA (Freedom of Information Act) requests, however, may require the institution to release Directory Information for those students who do not have Directory Information holds.

- Institutions must still suppress the Directory Information of alumni who placed directory information holds when they were students, unless they withdraw their request in writing to the Registrar.
Additional information on FERPA

- Please visit the FERPA website maintained by the Office of the Registrar and Legal Affairs for additional information and FERPA forms.

- If you have questions concerning the College’s FERPA policy and procedures, please contact:

  Office of the Registrar  
  College of Charleston  
  160 Calhoun Street, Lightsey Center, Room 281  
  Charleston, SC 29424

  Phone: 843.953.5668  
  E-mail: registrar@cofc.edu