Allegany College of Maryland

FERPA POLICY

[Federal law mandate]
Adopted 2006
Revised 2020
Approved by Board of Trustees 04/19/21
Implementation Date 07/01/21

BACKGROUND AND PURPOSE

The Family Educational Rights & Privacy Act is a federal law (enacted in 1974, amended in 2009) enforced by the United States Department of Education which requires institutions of higher learning to do certain things and forbids other things related to the privacy of students' information; the relevant federal regulations are found at 35CFR99. Non-compliance with FERPA jeopardizes a college's financial aid funding and exposes the institution and the individual to liability.

POLICY

I. POLICY STATEMENT

Allegany College of Maryland, employees, and persons working on behalf of the institution will comply with the federal Family Education Rights and Privacy Act, and the College will implement reasonable methods to protect student educational records.

II. SCOPE OF THE POLICY

This policy applies to the educational records maintained by the College of students taking credit and non-credit courses which are maintained by the College. This policy addresses how the College protects the privacy and access rights of students as well as restrictions to the unauthorized release of student records and protected student information. Different parts of the policy apply to students while others apply to faculty and staff – including students in their capacity as paid employees, quasi-employees, and/or members of college committees. This policy applies upon a student's enrollment. This policy applies at all campuses, instructional sites, and any property owned or managed by Allegany College of Maryland; the words "on campus" encompass all such properties. This policy applies to educational records after a student is no longer enrolled; however, this policy does not apply to distinct records created within the College's Alumni Office for fundraising purposes.

III. DEFINITIONS

"College Official" for purposes of this policy includes a person employed by Allegany College of Maryland, a student performing work for the College, a person serving on the Board of Trustees, General Counsel, an authorized volunteer, and/or a contracted person who performs an institutional service pursuant to written agreement.

"Directory information" at Allegany College of Maryland includes student name, address, email address, photo, dates of attendance, credentials earned, honors awarded, and alumni status.

"Educational records" include but are not limited to acceptance letter, registration, course schedules grades, transcript, attendance, date of birth, social security number, student identification number, birth name, sex assigned at birth, on-campus housing records, payment/billing, financial aid, disability requests, disability accommodations, selective admission program applications, vaccinations/vaccination verification, medical records required for an academic program, written communications to the student, text messages (to Mongoose, to College Officials' phones), ACM Wi-Fi records (including cell phone location), law enforcement records submitted to student conduct office, disciplinary records, threat assessment, intervention plans, and Title IX documents. (Notes; internal communications among College Officials; any writings, notes, documents, emails or communications that are pre-decisional and/or deliberative; other informal/unofficial documents; calendars; reminders; individual observations, and personal opinions do not constitute "educational records" but may be subject to other privacy protections that prevent or restrict disclosure to any person.)

"Disclosure" means the release of educational records or information contained within educational records.

"Maintained" means records created and preserved by the institution including authorized College Officials in the regular course of business.

IV. DISCLOSURE

A. Required

The College MUST disclose education records in the following circumstances:

1. Students have the right to inspect their own educational records.
2. The College will comply with a properly authorized and executed court order
3. Specified records are required to be shared pursuant to Title IX regulations.
4. Disciplinary outcomes may be disclosed to the victim of a violent offense upon written request.

B. Permitted

The College MAY disclose education records only if one of the following criteria is met:

1. Directory information (unless student opts out – see Student Rights below)
2. Emergencies
3. Student has signed a FERPA Release which is properly authenticated
4. Student is a dependent as filed in a third party's taxes
5. Financial aid information to authorized agencies and personnel
6. Drug/alcohol violations may be reported to parents of students under 21 years of age
7. Registered sex offender pursuant to community notification program (Campus Sex Crimes Prevention Act)
8. College employee with legitimate need to know
9. Deceased student's information to parents/next of kin
10. Studies for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction. Disclosures must comply with statutory requirements: written agreement which must state the scope, duration, information to be disclosed; individual students may not be identified; if collected, PII student information must be destroyed at the end of the study; confidentiality must be maintained; and no re-disclosure is permitted.
11. Audits/Evaluations by federal, state, local education authority
12. Accrediting bodies. Disclosures must comply with statutory requirements: written agreement which must state the scope, duration, information to be disclosed; individual students may not be identified; if collected, PII student information must be destroyed at the end of the study; confidentiality must be maintained; and no re-disclosure is permitted.
13. Authorized representatives of the U. S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or State and local educational authorities, such as a State postsecondary authority that is responsible for supervising the university's State-supported education programs. Disclosures must comply with statutory requirements: written agreement which must state the scope, duration, information to be disclosed; individual students may not be identified; if collected, PII student information must be destroyed at the end of the study; confidentiality must be maintained; and no re-disclosure is permitted.
14. Transfer/enrollment information to other colleges
15. USA Patriot Act investigation and/or prosecution

C. Not Permitted

The College may NOT disclose education records in the following circumstances:

1. Any disclosure that is not specifically permitted
2. FOIA requests for information that are not specifically permitted where redacting protected information is not possible.
3. Disclosure over the telephone unless the College Official has verified the student's identity on the call
4. Title IX records except as required by law (see Required above)
5. Conduct investigations and/or disciplinary action except as required by law (see Required above)
6. Other students or protected employee information in the record that cannot be redacted

D. Accidental

If an accidental disclosure occurs, the person responsible must promptly take the following steps:

1.) Attempt to recall or retrieve the information exercising due diligence and seeking help from relevant personnel or services as necessary;
2.) Attempt to contain the disclosure by directing the person(s) to whom the information was accidentally disclosed not to read, print, forward, or discuss the information with anyone;
3.) Verify that no other breach has occurred;
4.) Document what happened;
5.) Report to supervisor;
6.) Report a breach of personally identifiable information (PII) to the designated College Official who shall then report the breach to the Department of Education; and
7.) Notify the affected student about the breach including what happened, what information was disclosed, and what steps were made to correct the accidental disclosure. The student's remedy is to pursue an internal grievance

V. STUDENT RIGHTS

A. Students have the right to inspect and review their own education records within 45 days of submitting a written request to the College Official who maintains the record to be inspected. The request shall state with specificity which records are to be inspected and reviewed. The College Official will make arrangements and notify the student of the date, time, and place where the record may be inspected. If the contacted College Official does not maintain the record, the student's request shall be forwarded to the Executive Director of Enrollment and Advising Services or the Dean of Student & Legal Affairs.

B. Students have the right to request correction of inaccurate information that can be factually demonstrated; "inaccurate information" does not include outcomes or findings with which the student disagrees. A student who wishes to request a correction shall put the request in writing to the College Official who maintains the record - clearly identifying the record or part of the record the student seeks to change and specifying the grounds for the request. The College Official shall notify the student in writing if the request is granted and, if not, the reasons as well as how to appeal the decision.

C. Students have the right to request non-disclosure of directory information by notifying the Registrar in writing within two weeks after the first day. (Exception: students cannot opt out of disclosure to institutional employees with legitimate need to know)

D. Students have the right to provide written consent for disclosure of non-directory information.

E. Students have the right to file a complaint with the U.S. Department of Education concerning alleged failure 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

F. Students do not have any rights relative to another student's educational records unless specifically permitted by law.
G. Students may request to change their name and/or gender information.

VI. INSTITUTIONAL REQUIREMENTS AND PERMISSIONS

A. The College shall keep educational records secure.
B. The College shall maintain educational records for the period of time required by any relevant federal, state, or local law/regulation where applicable. Other records may be kept by the program or unit as determined necessary for efficiency, space, or other reasonable factors. Unless required by law/regulation, no program or unit must keep records for more than 5 years.
C. The College is not required to disclose protected information to any person/entity except the student as noted in Student Rights or except as required by a court order. Even with a properly executed written consent by the student, the College may decline to disclose to a third party.

VII. Procedures

Allegany College of Maryland shall adopt necessary procedures to implement this policy.

VIII. Other Provisions

Some educational records and student information may also be subject to other privacy laws or protections including, but not limited to, Health Insurance Portability and Accountability Act (HIPAA).

Application of this policy may directly or indirectly require the application of other institutional policies; nothing in this policy shall be construed to prohibit the application of related policies which include, but are not limited to the policies listed here. If the application of this policy conflicts with the application of another institutional policy, the College will make a good faith effort to comply with all mandates and legal requirements. Related policies: Data Classification Policy, Non-Discrimination, [Title IX], Safety Risk Policy, Code of Student Conduct; Alcohol and Drug Policy, HR policies, Academic Regulations, Personal Electronic Account Privacy Protection Policy, FERPA Policy.

IX. ADMINISTRATION OF POLICY

Executive Director of Enrollment and Advising Services is responsible for the implementation, administration, and oversight of this policy in consultation with other College Officials and/or General Counsel as needed. Questions, concerns, and reports of non-compliance should be promptly reported to Executive Director of Enrollment and Advising Services or to the Office of Student & Legal Affairs.

IX. CHANGES

Substantive changes to this policy require approval by the Board of Trustees; editorial changes, title/position changes, and/or changes to its implementation procedures may be made as required by federal or state mandate and/or institutional need with timely notice to students and employees.