

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)

Broward College Policy and Procedure 5.03 (http://www.broward.edu/legal/policies-and-procedures/_docs/policy/6hx2-5.03.pdf)

Broward College will provide access to student records in accordance with the Family Educational Rights and Privacy Act ("FERPA") and Florida Statutes. All requests for student records must be made to the Custodian of Records through the Office of General Counsel.

Student records should not be created or retained without a legitimate educational purpose for the information contained therein.

The College will protect the confidentiality of a student's record and share information only with members of the College community who have a legitimate educational interest, to another educational institution when the student is seeking or intending to enroll at that institution, is part of an authorized Federal, State, or local audit of such records in compliance with applicable law, in connection with the determination of financial aid eligibility or enforcement, pursuant to a lawfully issued court order, a properly prepared subpoena, to a contracted vendor of the College performing an authorized service where there is a legitimate educational interest for the vendor to have access to such records, or the information is designated directory information.

In response to a lawfully issued court order or a properly prepared subpoena, the College will seek to notify the student or the student's representative counsel when educational records are requested and before these records are released.

Student records of a counseling or non-academic nature will not be made available to any outside person without written authorization from the eligible student or parent unless those records are specifically requested in conjunction with federal or state laws or court orders. In the case of properly prepared subpoenas, the release of the record will only be given when the student has been notified and payment of the fee established by the Board of Trustees has been paid.

The Policy and the Student: FERPA and the Student

Students have the right to inspect their own official records and to authorize the College in writing to release information to outside sources. Eligible students and parents have a right to challenge the content of their record in order to ensure that the records are accurate, not misleading, or otherwise a violation of privacy or other rights. An eligible student or parent may exercise his/her rights under these provisions by submitting a request in writing to the Office of the Associate Vice Provost for Academic Affairs/College Registrar.

Student-generated documents are not considered working documents of the College or permanent student records, and it is the responsibility of the student to appropriately dispose of those documents. A student-generated document is for his/her own use. When such a document is presented to the College, it shall be reviewed and then returned to the student or eligible parent.

FERPA and the Parent of the Student

According to FERPA Regulations 34 C.F.R. § 99 and Florida Statutes, the parents of a student who has reached the age of 18 years or is enrolled in a post-secondary program no longer have any rights under the provisions of this policy, unless the student gives written consent to release the information to their parents, or the parent provides evidence that the student is a dependent of the parent as defined in the Internal Revenue Code. The parent of a student is required to establish his/her eligibility by providing dependency documents, including but not limited to, providing the most recent copy of a federal tax return naming the student as a dependent. Such documentation must be provided in accordance with the procedure, which accompanies this policy. The record provided will be for viewing and validation purposes only and not retained.

FERPA and Directory Information

Schools may disclose, without consent, "directory" information; however, the College must annually notify students and parents of their rights under FERPA to "opt out" of the release of directory information. The College notifies its students at the beginning of the fall and spring term in the student newspaper and the annual printing of the Student Handbook. The College reserves the right to deny access to directory information when such action is deemed necessary to protect the rights of the student.

In accordance with the Solomon Amendment, 10 U.S. Code § 983 and section 1004.095, Florida Statutes, the College shall grant military recruiters access to recruiting information including the names, addresses, telephone listing, dates and places of birth, levels of education, academic major, degrees received, and most recent educational institution for students attending the College. The information provided to military recruiters is not subject to the definition that the College has established for "directory information" as defined in this policy. Students who opt out of the release of College directory information will also be considered to have opted out of the release of military recruitment information.

FERPA and Outsourcing

The College may enter into agreements with outside vendors to provide services to the College that the College cannot or chooses not to provide through internal resources. In such situations, the College will ensure that the contractor will make student records available only to those individuals where there is a contractual relationship to provide such services. The College will ensure that the contracted vendor will not disclose personally identifiable information without the Colleges consent as allowed by an authorized FERPA exception.

FERPA and other Educational Institutions

Student records will be released at the request of the student if the student is seeking or intending to attend another educational institution.

FERPA and Health and Safety

In cases where there is a health and safety emergency, all College personnel are authorized to utilize any information as necessary to protect the health and safety of persons and property. Such release of information will not be considered a violation of College Policy. To the extent possible, the College will attempt to share information regarding the presence of students who may have a communicable disease without disclosing personally identifying data about the infected student. In instances where members of the College community have been exposed to a communicable health risk from a student, the College will, on a case-by-case basis, make a determination whether disclosure of the infected student's name is necessary to protect the health or safety of other persons, or if a general notice is sufficient.

Law enforcement unit officials or safety officials employed or contracted by the College are designated as "school officials" with a "legitimate educational interest." As school officials, the College may disclose without consent personally identifiable information from students' education records to law enforcement or safety officials in order to perform their professional duties and to assist with discipline, and other matters related to official duties at the College. Law enforcement may not disclose any personally identifiable information from the students' education record, except in compliance with FERPA. Specific law enforcement records maintained separately from education records are not subject to FERPA.

The Policy and the Faculty and Staff

Student records information may be released to faculty and staff for legitimate educational purposes. Faculty and staff will not release student records to any third-party individual without authorization from the student or parent, as appropriate.

Faculty and staff may not release educational records to the parents of a student, except when the student has given written consent to release such records in accordance with the procedure, which accompanies this policy.

Should faculty choose to post grades publicly, each student must be given a unique ID (other than the student's College issued ID or Social Security Number) known only to the faculty and student. Names or other personally identifiable information cannot be included in such postings.

Implementation and Oversight

The President has the authority to establish procedures to implement this policy. The Custodian of Records, and the Vice Provost for Academic Services are jointly responsible for implementation and oversight of policy compliance. Requests for information containing student records, from third parties, including but not limited to court orders, properly prepared subpoenas, authorized federal and state requests, etc., should be directed to the College's Office of General Counsel. Records will be released in compliance with federal and state laws and Broward College policy governing student records.

Violation of Policy

Students and eligible parents who believe there has been a violation of their rights regarding student records are encouraged to contact the Associate Vice President for Academic Affairs and College Registrar. If a resolution is not reached, students and eligible parents may grieve the alleged misconduct in accordance with section 1002.225, Florida Statutes, or they may contact the United States Department of Education's Family Policy Compliance Office.

Students who improperly obtain student records may be subject to discipline in accordance with the Student Code of Conduct.

Staff and non-represented faculty who improperly obtain records and/or misuse their access to student records to disclose, share, or dominate information to unauthorized persons, employees, or outside parties will be subject to discipline up to and including termination.

Full-time faculty who improperly obtain and/or misuse their access to student records to disclose, share, or disseminate information to unauthorized persons, employees, or outside parties, will be subject to disciplinary action up to and including termination, as outlined in the Collective Bargaining Agreement between the Board of Trustees of Broward College and the United Faculty of Florida, Broward College Chapter.

Definitions

Custodian of Records - Office of General Counsel

Directory Information - name, enrollment status, degrees, and awards received

Eligible student - a student who has reached 18 years of age or is attending an institution of post-secondary education

Eligible Parent - a natural parent, an adoptive parent, or a legal guardian of the student as defined in the Internal Revenue Code of 1954. An individual invoking the Code must present evidence showing his/her compliance with this provision

Student Record - files, documents, electronic images, and other formats which contain information directly related to a student and which are maintained as a permanent record at the College. Drafts or notes are not considered student records. The term "records" does not include:

1. Records of instructional, supervisory, and administrative personnel, which are in the sole possession of such personnel and which are not accessible or revealed to any other person except as a replacement for that person.
2. Records of law enforcement units of the College, which are maintained solely for law enforcement purposes and which are not available to persons other than officials of the College or law enforcement officials of the same jurisdiction.
3. Records made and maintained by the College in the normal course of business which relate exclusively to a student in his/her capacity as an employee/student worker and which are not available for any other purpose.
4. Records created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his/her professional or paraprofessional capacity or assisting in that capacity, which are created, maintained, or used only in connection with the provision of treatment/or services being provided to the student and which are not available to anyone other than persons providing such treatment and/or services in accordance with Title II of the Health Insurance Portability and Accountability Act ("HIPAA").
5. Directory information as defined by College Policy in accordance with FERPA;
6. Other information, files, or data which do not permit the personal identification of a student.
7. Letters or statements of recommendation or evaluation which were confidential under Florida law and which were received and made a part of the student's educational records prior to July 1, 1977.
8. Copies of the student's fingerprints; and
9. Working records, which consists of material used in the course of daily College business, which is not a "permanent record."