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Privacy and Access to Education Records Policy and Procedures

I. Philosophy and Purpose

Frederick Community College (“FCC” or the “College”) is committed to protecting the rights of students under the Family Educational Rights and Privacy Act (FERPA) as amended. The College is authorized to release only directory information. Directory information may be released by the College at any time unless the College has received prior written notice from the student, filed in the Welcome Center, requesting non-disclosure of information. This non-disclosure request will be honored until the student notifies the Registrar or his/her designee.

In addition to FERPA, the Higher Education Act of 1965 (HEA) requires that FAFSA data and all information collected to determine financial aid is kept separate from other data collected from the student. The HEA requires that FAFSA data be used only for the application, awarding, and administration of financial aid.

FCC will annually notify eligible students in attendance of their rights under FERPA.

The purpose of this Privacy and Access to Education Records Policy and Procedures is to provide guidance and instruction related to the protection of and access to information and records of students held by the College.

II. Definitions for the Purpose of this Policy and Procedures

- A. **“Family Educational Rights and Privacy Act (FERPA)”** refers to a federal law protecting the privacy of student education records. The law applies to all schools receiving funds under any applicable program of the U.S. Department of Education. FERPA applies to all education records of any student who is 18 years of age or older or who attends a post-secondary institution at any age.
- B. **“Eligible student” as defined by FERPA and as used in this Policy and Procedures** refers to any individual for whom the College maintains an education record, regardless of payment status or current enrollment.
- C. **“Work-Study Student”** refers to a student whose work experience at the College is awarded as a part of the student’s Federal Financial Aid package.
- D. **“Attendance”** refers to physical presence within a classroom; or through electronic formats for students who are not physically present in the classroom; or the period during which a student is working in a work-study program.
- E. **“Dates of enrollment”** refers to the period of time during which a student attends or attended an institution. The term does not include specific daily records or a student’s attendance at the institution.
- F. **“College Official”** refers to a person employed by the College in an administrative, supervisory, academic, research, or support staff position, persons serving on College governing bodies, and persons employed by or under contract to the College to perform a specific task, such as an attorney or auditor. Students are considered College officials when serving on an official committee provided that they have been trained on this Policy and Procedures.

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- G. **“College Catalog”** refers to a publication that is the official College record of requirements for admissions, registration, policies/procedures and program content. It is published once a year, with addenda posted throughout the year to www.frederick.edu.
- H. **“Legitimate Educational Interest”** refers to the demonstrated “need to know” by those College officials who act in the student’s educational interest, including faculty, administration, support staff, and other persons who manage student record information including student employees.
- I. **“Need to Know”** is defined as needing information in a student’s education record for the purpose of performing the required task(s) and responsibilities with an employee’s job.
- J. **“Disciplinary Action or Proceeding”** refers to the investigation, adjudication, or imposition of sanctions with respect to an infraction or violation of the internal rules of conduct applicable to students at the College.
- K. **“Disclosure”** refers to the action of permitting access to, or the release, transfer, or other communication of, personally identifiable information contained in an education record by any means, including oral, written, or electronic to any party except the party identified and the party that provided or created the record.
- L. **“Solomon Amendment”** refers to the 1996 amendment which requires the College to provide the U.S. Department of Defense representatives access to student recruiting information.
- M. **“U.S.A. Patriot Act”** refers to the 2001 Act which permits the College to disclose personally identifiable information from a student’s education record without notification to the student, to the U.S. Attorney General or his/her designee, in order to comply with an ex parte order in connection with the investigation of prosecution of an offense listing in 18 U.S.C. 2332b(g)(5)(B).
- N. **“Ex parte order”** refers to an order issued by a court of competent jurisdiction without notice to an adverse party.
- O. **“Workdays”** refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.
- P. **“Higher Education Act” of 1965 (HEA)** (Pub.L. 89-329) refers to legislation signed into United States law on November 8, 1965, which was intended “to strengthen the educational resources of our colleges and universities and to provide financial assistance for students in postsecondary and higher education.”

III. Information and Record Type

- A. **“Directory Information”** refers to information included in a student’s education record not generally considered harmful, or an invasion of privacy if disclosed. Directory Information includes: name; e-mail address; date of birth; enrollment status to include continuing education or credit (part-time/full-time); dates of enrollment; major field of study; weight and height of athletes; photographs and videos of

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students for use in College press releases, publications, and websites; participation in officially recognized activities and sports; honors, awards, degrees, and date of graduation.

- B. **“Non-Directory Information”** refers to, but is not limited to, student identification number (ID), social security number, or other personally identifiable information.
- C. **“Personally Identifiable Information (PII)”** refers to data or information which includes, but is not limited to: the student’s name; the name of the student’s parent or other family members; the address of the student or student’s family; a personal identifier, such as the student’s social security number, student number, or bio-metric record; other indirect identifiers, such as the student’s date of birth, place of birth, and mother’s maiden name; other information that, alone or in combination is linked to a specific student that would allow an individual, who does not have personal knowledge or the relevant circumstance, to identify the student with reasonable certainty; or information requested by a person who the College reasonably believes knows the identity of the student to whom the education record relates.
- D. **“Record”** refers to any educational information or data recorded in any medium (e.g., handwritten, print, tapes, film, microfilm, microfiche, and any form of electronic data storage including emails).
- E. **“Education Record”** refers to any record maintained by the College or by a party acting for the College that is directly related to a student or students. This record may contain a student’s name or information from which a student, or students, can be personally identified. These records include: files, documents, and materials in whatever medium (handwritten, print, electronic), which contain information directly related to the student. Education records include records of work-study students.

Education records do not include the following:

1. Records that are kept in sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person;
 2. Records relating an individual who is employed by the College, made and maintained in the normal course of business, related exclusively to the individual in the capacity as an employee, and are not available for use for any other purpose;
 3. Records on a student who is 18 years of age or older, or attending an institution of post-secondary education, regardless of age that are: made or maintained by a physician, psychiatrist, psychologist, or other medical provider; made, maintained, or used only in connection with the treatment of the student; and disclosed only to individuals providing the treatment. For this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at FCC.
- F. **“Sole Possession Record”** refers to a record that is kept in the sole possession of the maker, is used only as a personal memory aid, and is not accessible or revealed to any other person except a temporary substitute for the maker of the record.

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IV. Student Rights

A. Annual Notification of Rights

1. FERPA affords eligible students certain rights with respect to their education records. FERPA does not require the College to notify eligible students individually of their rights under FERPA. Rather, the College may provide the notice by any means likely to inform eligible students of their rights. Students will be informed annually of their rights under FERPA by publication in the College catalog, schedule of classes, and Student Handbook.
2. The annual notification includes information regarding an eligible student's right to inspect and review his/her education records, the right to seek to amend the records, the right to consent to disclosure of PII from the record (except in certain circumstances), and the right to file a complaint with the Family Compliance Office of the U.S. Department of Education regarding an alleged failure of FCC to comply with FERPA.
3. The annual notification must also inform eligible students of the FCC definition of the term "College official" and "legitimate educational interest."

B. Right to Review Education Records

1. A student has the right to review his/her education record within 45 calendar days of the day the College receives a written request from the student to the Registrar or his/her designee.
2. A student must submit a written request, by completing the Inspect/Review Education Records form, to the Registrar or his/her designee in the Welcome Center that identifies the records being requested. Faxing, mailing, or emailing this form will not be accepted; only in person submissions with verification of identity will be accepted and processed.
3. The Registrar or his/her designee will make arrangements for review of the requested education record(s) and notify the student of the time and place where the record(s) may be reviewed. A copy may be provided as long as the student does not have an outstanding financial obligation to the College.
4. If the requested record is not maintained by the Registrar, the Registrar or his/her designee shall advise the student of the correct College official to whom the request should be addressed.

C. Right to Request an Amendment to an Education Record

1. A student has the right to request an amendment to his/her education record which he/she believes is inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.
2. A student shall make a written request to the Registrar or their designee, clearly identifying the part of the record that is in question, requesting an amendment, and specifying why the record is perceived to be inaccurate or misleading.

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3. If the College decides not to amend the record as requested by the student, the Registrar or his/her designee will notify the student in writing of the decision and advise the student of all rights, including the right to appeal.
4. If a student chooses to appeal the amendment decision of the Registrar or his/her designee, the student must:
 - a. Request an appeal with the Vice President for Learning Support within five (5) workdays of the notification of the decision, using the Record Amendment Appeal form.
 - b. Submit the Record Amendment Appeal form to the Office of the Vice President for Learning Support either by email to LSAppeal@frederick.edu, or in person on the main campus at Suite 319 of Jefferson Hall (J Building), or through the U.S. postal mail to:

Frederick Community College
Office of the Vice President for Learning Support
7932 Opossumtown Pike
Frederick, MD 21702
5. The Vice President for Learning Support or his/her designee will respond in writing to the request for an appeal from the student within ten (10) workdays of the receiving the request for an appeal. The decision of the Vice President for Learning Support or his/her designee will be final.

D. Consent for Disclosure

1. For the College to disclose a student's PII, there must be a written consent for the disclosure on file in the Welcome Center, which will be honored for the academic year in which it was completed until expiration or until the student revokes the consent in writing.
2. The College does not disclose any student records, with the exception of directory information, to family members without student written consent.
3. The College has the right to disclose information to the extent that FERPA authorizes disclosure without written consent.
4. Disclosure to College officials with legitimate educational interest permits disclosure without written consent. A College official has a legitimate educational interest if the official needs to review an education record in order to fulfill professional responsibilities.
5. Upon request, the College may disclose education records without written consent to officials of another school in which a student seeks or intends to enroll, and to military recruitment services pursuant to the Solomon Amendment.

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E. Right to File a Complaint

A student has the right to file a complaint with the Family Policy Compliance Office of the U. S. Department of Education concerning alleged failures of the College to comply with the requirements of FERPA.

Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202-4605

V. Disclosure of Personal Identifiable Information (PII)

FERPA permits the disclosure of PII from a student's education record, without consent of the student, if the disclosure meets any of the following conditions found in the FERPA regulations:

- **Accrediting organizations** to carry out their accrediting functions.
- **Appropriate officials** in connection with a health or safety emergency.
- **Appropriate parties** to comply with a judicial order, lawfully issued subpoena, or ex parte order.
- **Auditors** to comply with audits conducted as part of business process review by the College.
- **Authorized representatives** of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, the U.S. Department of Treasury, or state and local educational authorities, such as a state post-secondary authority that is responsible for supervising the College state supported education programs. Disclosures under this provision may be made in connection with an audit or evaluation of federal or state supported education programs, or for the enforcement of, or compliance with federal legal requirements that relate to those programs. These entities may make further disclosure of PII to outside entities that are designated as their authorized representatives to conduct any audit, evaluation, or enforcement or compliance activity on their behalf.
- **College officials** whom the College has determined to have legitimate educational interests, as defined in Section II, F.
- **Department of Defense representatives** access to student recruiting information, in accordance with the Solomon Amendment.
- **General public** regarding the final results of a disciplinary proceeding if the College determines the student is an alleged perpetrator of a crime of violence or non-forcible sex-offense and the student has committed a violation of College policies and procedures with respect to the allegation. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.

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- **United States Department of Education and officials in connection with financial aid** for which the student has applied or which the student has received, if the information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.
- **Officials of another institution** where the student seeks or intends to enroll, or where the student is already enrolled if the disclosure is for purposes related to the student's enrollment or transfer.
- **Organizations that are conducting studies** for, or on behalf of, the College, in order to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.
- **Parents of a student** regarding the student's violation of federal, state, or local law, or rule or policy of the College governing the use or possession of alcohol or a controlled substance if the College determines the student committed a disciplinary violation and the student is under the age of 21.
- **Parties requesting Directory Information**, unless restricted by a Non-Disclosure request from the student.
- **U.S. Attorney General or his/her designee** in order to comply with an ex parte order in connection with the investigation of prosecution of an offense listing in 18 U.S.C. 2332b(g)(5)(B).
- **Victim of an alleged perpetrator** of a crime of violence or a non-forcible sex offense, subject to the requirements regulation. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding.

VI. Record of Disclosures

FERPA regulations require the College to record disclosures of PII that were disclosed without the student's written consent. FERPA regulations do not require the College to record disclosures to College officials, judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student. Eligible students have a right to inspect and review the record of disclosures.

VII. Procedures related to the Release of Information

A. Non-Disclosure

A student who elects to limit the disclosure of information must submit a [Non-Disclosure Form](#) in person to the Welcome Center and meet with the Registrar or his/her designee.

1. A student must validate identity in person by presenting a photo ID when submitting the [Non-Disclosure Form](#) to the Welcome Center.

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2. A service indicator will be placed on the student record and the form is then imaged to become part of the education record of the student.
3. There is no expiration date on the Non-Disclosure Form; therefore, a student who chooses to rescind or modify the former non-disclosure request must validate identity in person and submit a new [Non-Disclosure Form](#) to the Welcome Center.

B. Disclosure

A student, who elects to permit access of non-directory information to a third party, will need to obtain the proper Consent to Release Student Educational Records form in person from the Welcome Center.

1. A student must validate identity in person by presenting a photo ID when submitting the Consent to Release Student Educational Records form to the Welcome Center.
2. The form is retained electronically to become part of the education record of the student.
3. There is no expiration date for the Consent to Release Student Educational Records form; therefore, a student may choose to rescind the disclosure permission at any time by completing and submitting a new Consent to Release Student Educational Records form to the Welcome Center.