

FERPA

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

2017-2018

WHAT IS FERPA?

- FERPA is a Federal Law that protects the privacy of student educational records.
- It is also known as the Buckley Amendment.
- It was established to guarantee students the right to control access to their educational records.
- It is the first time for many students that privacy rights which previously belonged to their parent(s), now belong to them.
- It applies to ALL educational agencies or institutions that receive funds (financial aid) under any program administered by the Secretary of Education.

STUDENT'S RIGHTS

Current and former students are notified annually of their FERPA rights via the College Catalog and Student Handbook. Their rights include:

- 1) inspecting and reviewing their education records within a maximum of 45 days after written request is received. Note: MCC is not required to provide a copy of the education record unless failure to do so would deny access.
- 2) seeking an amendment or correction of educational records that the student believes is inaccurate or misleading and, in certain cases, append a statement of those records.
- 3) some control over the disclosure of information from educational records except when release is permitted by law.
- 4) filing a complaint with the Family Policy Compliance Office, United States Department of Education, within 180 days of the alleged violation.

WHEN DO FERPA RIGHTS BEGIN?

- A person becomes a student under FERPA when the person is “in attendance”.
- MCC defines a student as an individual who was, or is, currently ENROLLED for a previous, current, or future semester at MCC.
- If enrolled at MCC, the rights under FERPA are held by the student, regardless of age.
- FERPA rights and procedures do NOT apply to applicants for admission.
- Students retain all FERPA rights until deceased.

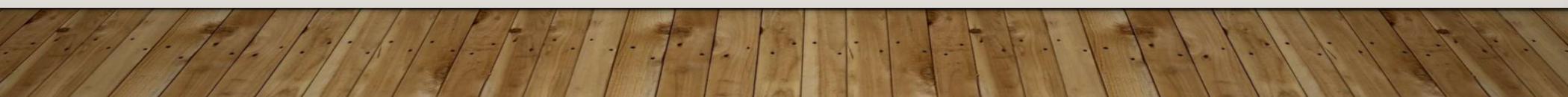
WHAT ARE EDUCATIONAL RECORDS?

- Under FERPA, education records are defined as records that are directly related to a student and are maintained by an education agency or institution or by a party acting for the agency or institution.
- Education records can exist in any medium, including: handwriting, print, computer media, video or audio tape, film, microfilm, and microfiche.
- Educational records are NOT:
 - law enforcement records, as defined in FERPA
 - employment records
 - medical records
 - post-attendance records
 - sole possession records (not accessible or revealed to any other person)

HOW MUCH ACCESS DOES AN MCC EMPLOYEE HAVE TO STUDENT EDUCATION RECORDS?

- FERPA permits college employees to have access to student education records in which they have "legitimate educational interest." Such access does not require prior written consent of the student.
- Essentially, legitimate educational interest is necessary for employees to carry out their responsibilities in support of the College's mission.
- Employees can also think of legitimate educational interest as a "need to know" that is essential to carrying out their job responsibilities related to education.

CURIOSITY DOESN'T COUNT.



WHY IS FERPA OUR RESPONSIBILITY?

- The access to sensitive student information is a professional privilege.
- Privilege carries a legal and ethical responsibility.
- The access or the maintenance of student records requires our personal commitment to ensure their security and confidentiality.
- A breach of security is breaking the law.
- Some examples include walking away from a computer screen that displays student records (without properly locking it) or leaving a grade book left open where anyone can see it.

WHAT IS DIRECTORY OR PUBLIC INFORMATION?

- “...information contained in an education record of a student which would not generally be considered harmful or an invasion of privacy if disclosed.” (1988 Final Regulation)
- Directory information can NEVER include:
 - Social Security
 - Race
 - Ethnicity
 - Nationality
 - Gender

WHAT IS CONSIDERED DIRECTORY INFORMATION AT MCC?

- Name
- Address
- Email address
- Telephone numbers
- Date and place of birth
- Photographs
- Most recent previous school attended
- MCC ID number
- Major field of study
- Campus attended
- Status (e.g., in-state/out-of-state, current enrollment, dates of attendance, full-time/part-time, withdrawn, degrees awarded)
- Honors received (e.g., Dean's List, Honors List, PTK)
- Participation in activities and sports
- Weight and height of athletic team members and other information "that would not generally be considered harmful or an invasion of privacy if disclosed"

CAN DIRECTORY INFORMATION BE RELEASED TO ANYONE WHO REQUESTS IT?

- Yes, if the student has not requested that directory information be withheld. However, use common sense before releasing, and have a “less is more” mentality.
- No, if the student has requested that directory information be withheld.
 - The FERPA restricted box will be checked in EX under Student Information (Name tab) as well as the Attribute Code 100 will be on the student’s account.
 - A red lock (next to the student’s name) means no one has been authorized access.
 - No information can be released outside of MCC except as provided by the law or to anyone within MCC who does NOT have a need to know.

REMEMBER WHEN IN DOUBT, DON'T GIVE IT OUT!

MAY MILITARY RECRUITERS REQUEST FOR STUDENT INFORMATION?

- Yes, the Solomon Amendment is a federal law that allows military recruiters to access some address, biographical and academic program information on students age 17 and older.
- The Department of Education has determined the Solomon Amendment supersedes most elements of FERPA.
- Failure to comply may result in loss of federal funding.
- An institution is therefore obligated to release data included in the list of “student recruiting information,” which may or may not match MCC's established directory information list.
- All requests from military recruiters must be handled by the Registrar’s Office.

DISCLOSURE WITHOUT CONSENT

FERPA allows schools to disclose student information, without consent, to the following parties or under the following conditions:

- School officials with legitimate educational interest
- Other schools to which a student is transferring
- Specified officials for audit or evaluation purposes
- Appropriate parties in connection with financial aid to a student
- Organizations conducting certain studies for or on behalf of the school
- Accrediting organizations
- To comply with a judicial order or lawfully issued subpoena
- Directory information

DISCLOSURE WITHOUT CONSENT

- Appropriate officials in cases of health and safety emergencies
- To an alleged victim of any crime of violence, the results of the alleged perpetrator's disciplinary proceeding may be released
- To authorized agents, vendors, or contractors of the College who have agreed to abide by the provisions of FERPA regarding covered student data
- Any member of the public in matters relating to sex offenders and information provided under relevant federal law
- A court in which the College is defending itself against legal action initiated by a parent or eligible student
- Individuals requesting records for students who are deceased

HOW CAN A STUDENT REQUEST THAT THEIR INFORMATION BE WITHHELD?

- Written notification must be received in the Registrar's Office.
- A request applies to ALL elements of directory information on the student's record.
- The request can impact honor's publications, PTK ceremonies, graduation announcements, military recruiter requests, and prospective employers.
- The withhold information request remains in effect until the student requests in writing that it be removed.

HOW DOES THE STUDENT SUBMIT CONSENT FOR MCC TO SHARE THEIR INFORMATION?

- A student must voluntarily sign and date a FERPA Release form that designates what education information the College is authorized to release specifying:
 - the information that may be disclosed e.g., financial, academic;
 - the purpose for which they may be disclosed;
 - the person or any third party to whom they may be disclosed e.g., legal guardian, parent or spouse.
- A green lock (next to the student's name) means someone has been authorized access. Click on the green lock in order to determine who has been authorized and what information can be disclosed.
- Having a consent to release information means that MCC can share information with the designated person or third party. It does NOT mean that the individual can act on their behalf.

HOW DO YOU VERIFY AND AUTHENTICATE?

To comply with FERPA, and before disclosing confidential student information to a student or a third party via phone, in person, or email, staff must verify and authenticate the person they are communicating with is in fact, the student (former student) or the authorized third party.

- In person, use picture ID
- On the phone

Verify with three pieces of information:

- MCC ID number
- Phone Number
- Current Mailing or Permanent Address

HOW DO YOU VERIFY AND AUTHENTICATE?

➤ On the phone

Authenticate with personally identifiable information that only the current or former student would know:

- What grade did you receive in ...
- Who was your instructor in ...
- When did you take ...
- What is your current (or graduated) program of study?
- What was the last semester you attended MCC?
- What is one course that you took at MCC?

HOW DO YOU VERIFY AND AUTHENTICATE?

➤ Via email

Information can be inadvertently disclosed to someone other than the intended recipient.

- Respond to a student at their MCC email account
- If an alternative email address has been used by the student, always check in EX under the Student Information (Biograph tab) to verify that this is an acceptable alternative address.
- Responses should contain the least amount of student confidential information as possible.
- When feasible, redirect the student to access specific confidential information e.g., grade information or tuition/fee charges, to the myMohave portal or have the student call MCC Connect or schedule an appointment with an advisor.

WHAT CAN HAPPEN IF WE FAIL TO FOLLOW THE LAW?

- Lawsuit
- Loss of federal funding, including financial aid.
- The Department of Education will “showcase” the violation on their website.
- A FERPA violation could be related to a Red Flag violation, which has stiff financial penalties for each violation.
- Employment action, disciplinary consequences up to termination.
- Conviction of a misdemeanor under the Public Information Act.
 - Confinement in the county jail not to exceed six months or fine not to exceed \$1000.00 or BOTH.

WHAT SHOULD I DO IF I COMMIT A FERPA VIOLATION?

- When a FERPA violation occurs, time is of the essence.
- It is your professional responsibility and duty to immediately report the violation to your direct supervisor or manager.
- The direct supervisor or manager may work with you and cooperatively with other College departments in order to mitigate the damage, determine the root cause(s), and devise strategies to prevent future occurrences.
- It is the immediate actions and notification of the employee that allows for faster and more effective decisions in the midst of a violation.