Welcome to the Family Educational Rights and Privacy Act (FERPA) Training

Cardinal Stritch University is using advances in information technology to enhance teaching and learning, streamline business processes, and improve student services. There is a delicate balance between the responsibility for maintaining student privacy rights and the responsibility for providing effective and efficient service to students. To preserve that balance, it is essential that all members of the campus community who gather, store, access, or use student data understand the legal, ethical, and policy issues related to privacy and the handling of student information.

This process starts with the legal implications of the Family Educational Rights and Privacy Act (FERPA). FERPA is a federal law and is the touchstone of student information privacy practices at Cardinal Stritch University and other institutions of higher education. The tutorial that follows is designed to prepare authorized members of the campus community to fully understand the responsibilities of handling student record information under FERPA and the University's student records policy.
What is FERPA?

FERPA is an acronym for the Family Educational Rights and Privacy Act (20 U.S.C. 1232g, 34 CFR § 99). Congress enacted FERPA, also referred to as the "Buckley Amendment," in 1974. FERPA conditions federal educational funding on providing student access to, and maintaining the privacy of, education records. Faculty, staff, administrators and other university officials are required by FERPA to treat education records in a legally specified manner.
Where do I find Cardinal Stritch University’s FERPA Policy?

The summary information in this tutorial cannot be a substitute for reading the Cardinal Stritch University Student Handbook. The handbook can be found at http://www.stritch.edu/studentlife/dean/publications.aspx.
Who is protected under FERPA?

The rights under FERPA apply to eligible students. An eligible student is an individual who is, or has been, in attendance at Cardinal Stritch University.
What are a student's rights under FERPA?

There are seven primary rights under FERPA. These are:

- to be informed about educational records;
- to inspect them;
- to request an amendment to the records;
- to challenge the accuracy of the records;
- to prevent unauthorized disclosure of the records;
- to file a complaint with the U.S. Department of Education (DOE) about a violation of FERPA; and
- to waive these rights in writing.
Do parents have any rights?

When a student is in attendance at the University, the student exercises the rights under FERPA. In elementary and secondary schools, those rights are exercised by the parent.

FERPA does allow the University to disclose education records to parents of dependent students just as they would to the student. Dependent means a dependent pursuant to the definition under the IRS Code. The Office of the Registrar maintains a record of those students whose parents have provided required documentation that the student is a dependent under the federal tax laws.

Faculty and staff need to be careful when a parent calls and asks for information about a student. If there is no written waiver by the student or the student is not a dependent, disclosure even to a parent can be unlawful. In these situations, faculty and staff should obtain assistance from the Office of the Registrar.

Spouses have no rights under FERPA.
What is an education record?

The definition of education record under FERPA is broad. It essentially refers to any record that is directly related to a student and that is kept by the University or someone acting on behalf of the University. A record includes information that is recorded in any way, including by computer media. When in doubt, assume that the item, if it relates to a student, is an education record and seek further assistance.

The terms "student record" and "education records" are often used interchangeably. They are, however, distinguishable under FERPA. For example, as discussed below, some student records are not considered education records and are not subject to FERPA protection.

Written permission must be obtained from a student before releasing an education record, unless the request fits certain narrow exceptions.

One exception, for which written permission from the student is not generally required, is the release of directory information. Directory information is discussed later in this tutorial.
What is not an education record?

FERPA has a number of key exceptions to the definition of education records. Those include:

- Records of the University's Department of Security;
- Employment records where employment is not connected to student status;
- Medical and mental health records used only for the treatment of the student;
- Alumni records that do not relate to the person as a student; and
- Records made by instructional, administrative and educational personnel not shared with others.

While some records, like medical treatment records, may not be an education record under FERPA, they are confidential under other provisions of law and professional ethics requirements. Also, if records of the University’s Department of Security are shared with others on campus, such as the Dean of Student’s Office for disciplinary reasons, they become education records.
What are some common examples of education records that might exist on a student?

The University creates or maintains many education records on a typical student. For example, John Doe is admitted to Cardinal Stritch University to complete a B.S. in Nursing. Though he has a small financial aid award to cover room and board, he has a work-study job in the Chemistry Department to make ends meet. For his disclosed learning disability, he gets tutoring in Academic Support, but it does not interfere with his participation on the men's soccer team or in the Crop Walk. A letter he wrote to Student Development about what he learned as the subject of a minor disciplinary charge was considered so incisive that it was shared with Residence Life staff via e-mail. When John had doubts about whether he was suited for a career in nursing, he met with his faculty advisor who took notes and later referred him to the Center for Counseling and Mental Wellness for help with stress management. The counselor wrote to John's faculty advisor to find out if John could rearrange his class load. The nursing supervisor at the hospital where John completed his nursing practicum sent a letter to the Dean praising John's work with elderly patients. John's grade point average upon graduation was 3.75.

There are many education records on John, found in several different offices: Admissions, Office of the Registrar, One Stop, Financial Aid, College of Nursing, Chemistry Department, Dean of Students, Residence Life, Academic Support, Payroll, Athletics, Department of Security, his faculty advisor and the Dean of the School of Nursing. Education records about John are also stored on the University Data Delivery System (Jenzabar), My Stritch, the University's e-mail system, and in hard copy in department files.
What is "directory information"?

FERPA permits institutions to specifically define some education record information as directory information not confidential under FERPA. This is information that is generally not considered harmful or an invasion of privacy if disclosed.

Cardinal Stritch University has defined "directory information" as:

* Name of student
* Address
* Phone number
* University e-mail address
* Major field of study
* Degrees received
* Dates of Attendance
* Grade level
* Enrollment status (i.e., full-time, part-time, undergraduate, graduate)
* Name of institution last attended
* Participation in official sports and activities
* Height and weight of members of athletic teams

As discussed on the next page, before releasing any directory information, check with the Office of the Registrar to see if the student has placed a hold on the release of directory information.
Can a student refuse to allow directory information to be released?

Yes. Under FERPA, the University must allow a student to opt out of the release of directory information. Students must complete a form to request that the Office of the Registrar keep all directory information restricted from release. Directory information in a restricted record may not be released without written permission from the student, unless the request for release fits certain exceptions (discussed in next screen). Therefore, faculty and staff need to be careful about assuming that because an item is directory information it can be freely disclosed. If you are unsure if a student has requested to withhold directory information, you should contact the Office of the Registrar.
How does a student give specific consent for release of educational records?

The student can provide a written release giving specific consent to the disclosure of the student's education records. The release needs to be dated and signed and must describe the records, the purpose for the release, list to whom the records can be given and a time for how long the release is effective. There are a number of different releases at the University, including a generic release and releases specifically designed for student athletes and for job references.

A faculty member should have a student sign a release before providing a job reference or a reference for the student for certain academic purposes, such as scholarships or awards. The job reference is one area where faculty often forget to obtain a written release.

A faculty member should not consider an e-mail from a student to be a valid consent for release of education records.

If a record contains personally identifiable information on other students, delete that information before disclosing the record for the student who has provided written consent.

The Registrar is the University official responsible for keeping all official academic education records. Only the Office of the Registrar may release an official transcript. All requests for education record information originating from outside the University should be directed to the Office of the Registrar.
When is written consent not necessary?

FERPA provides many specific exceptions when the University can disclose education records without specific student consent. Many of these exceptions are provided in the regulations to allow for the reasonable and practical workings of an educational institution. The exceptions are listed in the University’s Student Record Policy.

Some of the most common exceptions include:

* Disclosure to other school officials within the University whom the University has determined to have legitimate educational interests;
* Disclosure to officials of another school where the student seeks to enroll;
* Disclosure in connection with financial aid for which the student has applied;
* Disclosure to accrediting organizations to carry out their accrediting function;
* Disclosure to parents of a dependent student, as defined by the IRS Code;
* Disclosure to comply with a judicial order or lawfully issued subpoena;
* Disclosure in connection with a health or safety emergency;
* Disclosure to military recruiters (Solomon Act).

Additional conditions must be met on some of these exceptions. If you have any questions please contact the Office of the Registrar for additional information.
Who is a "school official"?

A school official is a person employed by the University in an administrative, supervisory, academic, research or support staff position; a trustee or outside contractor such as an attorney or auditor acting as an agent for the University; students or others serving on an official committee, such as a disciplinary or grievance committee, or who is assisting another school official in performing his or her tasks.
What is a "legitimate educational interest"?

A school official has a legitimate educational interest in the protected education records if the official is:

* Performing a task that is specified in the official's position description or contract agreement; related to a student's education; or related to the discipline of a student;
* Providing a service or benefit relating to the student or student's family, such as health care, counseling, job placement, or financial aid;
* Maintaining the safety and security of the campus.

Legitimate educational interest does not include simply having a curiosity about the academic record or disciplinary proceedings with regard to a student without some legitimate academic reason. Thus, all records of all students are not open to all faculty or staff at the University.

Consult with the Office of the Registrar if you have any question about whether a legitimate educational interest exists in connection with a request for student data.
What are the sanctions or liability risks for a FERPA violation?

FERPA provides for a complaint procedure to the United States Department of Education with an ultimate sanction of withholding of federal funding. While there is generally no private cause of action directly under FERPA, students may seek to hold the University or individuals liable under common law tort theories such as invasion of privacy. Faculty, staff, administration or students who violate the University's FERPA policy will be subject to corrective or disciplinary action, depending on the individual circumstances.
Who can I talk to if I have further questions about FERPA?

The Office of the Registrar is the first stop for any questions about FERPA or the University's policy 414-410-4081.

At a minimum, each person on campus who has access to student record information should read the annual notice to students found in the Student handbook: http://www.stritch.edu/studenthandbook or from the academic catalogues found under the Academic Programs Tab at http://www.stritch.edu.
Tips on Managing Student Records *

* Adapted from Of Counsel – A Bulletin on Legal Issues at Catholic University of America – November 1997.

DO review a copy of the Cardinal Stritch University Student Records Policy before responding to a request for education records.

DO NOT release directory information on a student without checking with the Office of the Registrar to see whether the information has been flagged for non-release.

DO check with the Office of the Registrar before disclosing any student educational record information to third parties outside the institution.

DO refer all subpoenas or IRS summons or other legal process requests for education records to the Office of the Registrar.

DO obtain signed, written permission from the student before sharing educational record information, including grades and grade point averages, with parents or others outside the institution. (Exception: a parent who provides the Office of the Registrar a copy of his/her most recent federal income tax return or other evidence of the dependent status of the student may be given access to student record information.)

DO NOT request information from an education record custodian, or access the student's records by computer, unless you have a legitimate educational interest and are authorized under the Cardinal Stritch University student records policy to access the information.
Tips on Managing Student Records, cont.

DO follow the confidentiality provisions of FERPA by not sharing education records information with your colleagues unless a legitimate educational interest exists.

DO NOT put purely personal notes (for example, from a committee meeting recommending students for a particular program) in the student's file, because those notes will become accessible to the student. Such records can be kept confidential only if they are kept in the sole possession of the maker and are not accessible or revealed to any other person. Official committee minutes are likely to be considered accessible.

DO NOT post students' papers, scores or grades in a public place or outside of your office. If posted, such as in Educator, use a code known only to you and the student.

DO NOT e-mail or fax grades to students.

DO remember that medical, mental health and law enforcement records should not be put in the student's file with the student's education records. Medical and mental health records supporting an accommodation for a disability should be forwarded to the Dean of Students Office in an envelope marked confidential, and law enforcement records should be kept in the Department of Security.

DO NOT release information about a student disciplinary matter without conferring with the Vice President for Student Development/Dean of Students.
THANK YOU FOR COMPLETING THE EDUCATIONAL PORTION OF THIS TUTORIAL.

** Please print out and complete the FERPA SIS Sign Off Form found under Quick References.

** Return the completed form to the Office of the Registrar.

Special thanks to Seattle University for their assistance.