



RULE-MAKING ORDER (RCW 34.05.360)

CR-103 (10/1/89)

Agency: BIG BEND COMMUNITY COLLEGE

Permanent Rule

Emergency Rule

(1) Date of adoption: February 28, 1994

(2) Purpose: To amend rules and procedures of the college Family Educational Rights and Privacy Act

(3) Citation of existing rules affected by this order:

Repealed:

Amended: WAC 132R-190

Suspended:

(4) Authority for adoption:

Statute: 28B.50.140

Other Authority:

(5.1) **PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 94-01-049 on 12/08/93 (date).

Describe any changes other than editing from proposed to adopted version:

(5.2) **EMERGENCY RULE ONLY**

Pursuant to RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

Yes No If yes, explain:

(6) Effective date of rule:

Permanent Rules

Emergency Rules

31 days after filing

Immediately

Other (specify) _____ *

Later (specify) _____

*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

CODE REVISER USE ONLY

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STATE OF WASHINGTON

MAR 08 1994

TIME

WSR

10:03 AM
4/20/94

NAME (TYPE OR PRINT)

Robert O. Sorenson

SIGNATURE

TITLE

Vice President, Administrative Svcs

DATE

3/3/94

AMENDATORY SECTION (Amending WSR 90-02-019, filed 12/26/89, effective 1/26/90)

WAC 132R-190-010 Purpose. The purpose of this chapter is to ~~((comply with the requirements of Public Law 93-380, § 513, of 1974, also annotated as 20 U.S.C.A. 1232, which law represents amendments to the General Education Provisions Act. As indicated in the aforesaid law, its purpose is to assure the students attending institutions of higher education such as Big Bend Community College shall have a right to inspect certain records and files intended for school use or made available to parties outside the college))~~ implement 20 U.S.C. Sec. 1232q, the Family Educational Rights and Privacy Act of 1974, by establishing rules and procedures to ensure that information contained in student records is accurate and is handled in a responsible manner by the college and its employees. Further information on policies and procedures relative to student records is available in the ("Student Rights and Responsibilities" handbook section 300 Student Records and section 509 Maintenance of Records, as adopted by the Big Bend Community College board of trustees.) student records section of the "Student Handbook."

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-020 Definitions. The following definitions shall apply in interpreting these regulations:

(1) ~~((("His" when used throughout these regulations shall accomplish reference to both male and female sexes.))~~ "Directory information" means information contained in a student's education record which is general in nature and does not constitute an invasion of privacy if disclosed. The college has designated directory information in WAC 132R-190-035.

(2) "Education records" means those records, files, documents and other materials which contain information directly related to a student and are maintained by the college~~((The definition of "education records," however, does not include any materials used by any college instructor in the course of assessing a student's academic performance, including but not limited to academic grades conferred, essays, tests, written evaluations given during the course of directed studies, and the like, nor materials maintained by the college's counseling center and the college's health services center, or by any other psychologist paraprofessional acting in his or her professional or paraprofessional capacity for the benefit of the college, nor does it include campus security records.~~

~~(3) "Disciplinary records" shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action.~~

Special precaution shall be exercised to insure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records.

(4) "Student" is defined as a person who is currently enrolled in a regularly scheduled class conducted at the college. Regularly scheduled classes shall include those classes occurring during fall, winter, spring and summer quarters and those classes in which residence credits are conferred regardless of the location. A person is a student for purposes of these regulations even though he is not currently enrolled in summer quarter but was regularly enrolled during the previous spring quarter), except:

(a) A personal record kept by educational, supervisor and administrative personnel which belongs solely to the maker of the records and which has never been disclosed or made available to any other person except the maker's temporary substitute.

(b) An employment record used only in relation to an individual's employment.

(c) Records made and maintained by a Big Bend Community College counselor acting in his or her professional capacity which are used only in connection with the treatment of the student are not available to anyone except that the records may be personally reviewed by a physician or other appropriate professional of the student's choice.

(d) Alumni records which contain information about a student after he or she is no longer in attendance at the college and which do not relate to the person as a student.

(3) "Student" means any individual who is or has been in attendance at Big Bend Community College and on whom educational records are maintained.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-030 Right of inspection. Any student shall have a right, subject to the procedural requirements outlined in WAC 132R-190-070 through 132R-190-090 of these regulations, to inspect any and all education records directly related to him or her that is intended for school use or that is available for parties outside the school ((or school system. In the case of any education records relating to a student which also include information regarding another student, the responsible college officials shall delete any personally identifiable information relating to the identity of such other student)). Education records will be made available to the student within fifteen working days after receipt of the request to inspect the records. Copies may be requested and shall be provided at a fee not to exceed the actual cost to the college of providing the copies.

The college reserves the right to refuse to permit a student to inspect and review the following education records:

(1) The financial statement of the student's parents.

(2) Statements and letters of recommendation prepared by college officials or submitted with the student's application for

admission which are placed in the student's records before January 1, 1975, or for which the student has waived his or her right of access in writing. Except that if these statements and letters have been used for any purpose other than that for which they were originally prepared, the student may inspect and review them. When a record contains personally identifiable information about more than one student, a student may inspect only that information which relates to him or her.

(3) Records connected with an application to attend the college if that application was denied.

(4) Those records which are excluded from the definition of "education records" in WAC 132R-190-020(2).

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-035 Availability of directory information.

((Except as hereinafter provided, the following information contained in a student's education records shall be available to members of the public:)) The following personally identifiable information contained in a student's education record shall be deemed "directory information" and unless restricted by the student may be disclosed without a student's prior written consent: Student's name, address, telephone listing, date of birth, participation in officially recognized activities and sports, weight and height of members of athletic teams, ((dates of athletic teams,)) dates of attendance ((at the college)), honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. ((Such information shall be deemed "directory information." The college will give public notice to students of the matters contained in the above designated "directory information" that is available to members of the public at the time the student registers for enrollment in the academic quarter. On the day of such registration each student shall indicate on the college registration form whether he will not consent to the college's release of such directory information to others without his consent.)) The college will give public notice to students annually of the matters contained in the above-designated "directory information." Each student will have ten days from the day of registration to decide if he or she wishes to have directory information released without written consent.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-040 Access permitted to college and certain other officials without consent. (1) The following persons, individuals, agencies, or organizations shall be entitled to access to official education records((, files, and data)) of any student((7)) subject to the limitations outlined in subsection (2)

of this section (~~WAC 132R-190-040,~~) without prior written consent of the student:

(a) (~~Other school officials, including instructors within the college who have a legitimate educational interest;~~) College officials, including administrators, faculty, instructors and staff who have a legitimate educational interest within the performance of their responsibilities to the college;

(b) Officials of other colleges, schools, or school systems, upon the condition that the student is notified of the transfer and receives a copy of the record if he or she desires it and has the opportunity to challenge the content of the record, per the procedures outlined in WAC (~~132R-190-090~~) 132R-190-100;

(c) Authorized representatives of the (~~Controller~~) Comptroller General of the United States, the Secretary (~~of Health, Education and Welfare, and administrative head of an education agency as defined in § 409 of Public Law 93-380, or state of Washington educational authorities;~~), or state and local educational authorities. State and local officials, organizations conducting studies for educational agencies or institutions provided, that except when collection of personally identifiable data is specifically authorized by federal law, any data collected by (~~the controller general, the secretary, administrative head of a United States education agency or state educational authorities~~) these representatives with respect to individual students shall not include information (~~including social security numbers~~) which permit the personal identification of such students(~~-~~);

(d) (~~Authorized representatives of the Office of Education at the U.S. Department of Health, Education and Welfare, the Law Enforcement Assistance Administration of the U.S. Department of Justice, the U.S. Veterans Administration, the Bureau of Indian Affairs, the Washington state department of social and health services;~~) Lending institutions receiving applications from students or granting to students financial aid, and individual organizations or institutions that provide scholarships to any applicant student when such organizations or individuals make requests for students' education records in connection with a student's application for, or receipt of, financial aid;

(e) Accrediting organizations to carry out their accrediting functions;

(f) Parents of a dependent student, as defined in section 152 of the Internal Revenue Code of 1954;

(g) Any person or entity authorized by judicial order or lawfully issued subpoena to receive such records or information, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith by the college;

(h) Appropriate parties in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of the student or other persons.

(2) The college shall maintain a record, kept with the education records of each student, (~~which will indicate all the agencies or organizations referenced in subparagraphs (1)(b) and (1)(c) of this section~~) indicating all agencies or organizations which have requested or obtained access to the student's education records. The (~~college employee who is the custodian charged with the maintenance of such student education records shall further~~) custodian of the records shall indicate specifically the legitimate

interest each such agency or organization has in obtaining this information. The record may be reviewed by the student.

~~((3) If any of the agencies or organizations described in subparagraphs (1)(b) or (1)(c) of this section, request access to the education records of ten or more students, they may do so on a form provided by the college that indicates the request is being made on a blanket basis. Such form shall also require the agency to identify the legitimate interest the agency has regarding student's education records. The college employee who is the custodian of each student education record requested by an agency or organization referenced in subparagraphs (1)(b) and (1)(c) of this section shall then enter in such education record notice of such agency's or organization's request and the place where the request may be found.))~~

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-050 Distribution of information to others. The college shall not furnish ~~((in any form))~~ any personally identifiable information contained in education records directly related to a student to any person, agency, or organization other than those designated in WAC 132R-190-040, unless ~~((it first obtains))~~ a written consent from the student~~((, which written consent also specifically identifies))~~ is obtained. The written consent should specifically identify the records to be released, the reason(s) for (such) the release~~((,))~~ and to whom ~~((such personally identifiable information is))~~ the records are to be released. ~~((In the case any such personally identifiable information contained in a student's education records is to be furnished in compliance with a judicial order or pursuant to a lawfully issued subpoena, the college shall notify the student in advance of compliance therewith.))~~

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-060 Notice of rights given under Family Educational Rights and Privacy Act ((of 1974)). ~~((In accordance with the requirements of the aforesaid federal statute, the college will make its best efforts to notify all students of their rights under this act. Such notification shall be done through the Washington Administrative Code procedures provided for by the Higher Education Administrative Procedures Act, and such other publications))~~ The college shall annually notify students currently in attendance of their rights under this chapter and the Family Educational Rights and Privacy Act. This notification shall be provided through the college catalog and student handbook and may be included in such other publications and media ~~((that))~~ as the college deems appropriate.

AMENDATORY SEC. N (Amending Order 76-9, f. d 3/9/76)

WAC 132R-190-070 Requests for access to student records.

~~((1) No personally identifiable information relating to a student's education records will be furnished to any person whatsoever unless such person makes a written request to do so and provides to the custodian of such records information sufficient to identify the requesting party as a person who has a right to access to such records. By way of example and not limitation, a requesting party who identifies himself as a student to whom such record relates must provide a driver's license sufficient to establish the identity of such student. In the case of any persons in the category of those individuals, persons, agencies, or organizations identified in WAC 132R-190-040 no personally identifiable information contained in any student's education record will be disclosed without providing information of the same type and nature as that required of a student plus other information as the custodian of the record deems sufficient to ascertain the official capacity of such requesting party.))~~
Personally identifiable information regarding a student will only be furnished to persons making a written request and providing to the custodian of the records information sufficient to identify the requesting party as a person who has a right to access to such records.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-080 Determination regarding records.

The college reserves the right to determine that a record regarding a student is not an education record or material defined in WAC 132R-190-020 ~~((or that the provision of))~~. A determination that personally identifiable information ((relating to a student)) was properly given to an authorized agency per WAC 132R-190-040 will be made by the college. Such written determinations ((shall)) may be made ((in writing and may be accomplished)) in consultation with any of the records officers of the college as designated in chapter 132R-175 WAC.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-090 ((Hearing—procedure-)) Challenges--To

content of records--To release of records--Or to denial of access to records. ~~((1) Any person objecting to a denial of a request for any college record relating to a student, or any student who contests whether the transfer of any college record relating to him is permitted under these regulations, may petition for prompt review of such denial or written objection to transfer. Such written request shall:~~

~~(a) Be served upon the public records officer provided for in chapter 132R-175 WAC;~~

~~(b) Demand prompt review; and~~

~~(c) In the case of objection to transfer, specifically reference the party to whom he does not want the record transferred and contain a written statement by the record custodian denying the person's request. Upon receipt of a proper written objection to transfer of a student record, the college public records officer shall cause such records to not be transferred pending outcome of the hearing proceeding provided for in these regulations.~~

~~(2) Within ten days after receipt of the written request by a person petitioning for prompt review of a decision by a custodian of student records, the president of the college or any of his designees shall consider such petition.~~

~~(3) The president or his designee may at the end of the ten day period either meet the objecting party's objection and advise him of the same in writing, or in the alternative, set the matter up for a hearing before a hearing officer designated by the president or the president's designee. Such hearing shall be conducted within thirty days after the objecting party served his objections on the college's public records officer and shall be an informal hearing. The president or his designee shall determine the time and place for such hearing. At the hearing, the objecting party shall further explain and identify his exact purpose for seeking the record he has been denied or why he has lodged objections to transfer of a student record. Failure by the person requesting the review to appear at such informal hearing shall be deemed a waiver of that person's right to insist upon completion of the review of his request.~~

~~(4) During the course of the informal hearing conducted by the president, his designee, the person conducting hearing shall consider the obligation of the college to fully comply with the Family Educational Rights and Privacy Act, but shall also consider the exemptions provided in the course of these regulations. A record shall be made of the informal hearing by mechanical transcriptions or any other means satisfactory to the college.~~

~~(5) Within ten days after the hearing has occurred, the president, or his designee, or the hearing officer appointed to conduct the informal hearing shall provide the objecting party with a written decision, which decision shall be binding upon the college and upon the objecting party.))~~ (1) Any student who believes that inaccurate, misleading, or otherwise inappropriate data is contained within his or her education records shall be permitted to have included within the record a written explanation by the student concerning the content of the records.

(2) A student shall have the right, in accordance with the procedures set forth in WAC 132R-190-100, to:

(a) Challenge the content of education records in order to ensure that the records are not inaccurate, misleading, or otherwise in violation of the privacy or other rights of the student;

(b) Have the opportunity to correct or delete inaccurate, misleading, or otherwise inappropriate data contained within education records;

(c) Challenge the release of education records to specific persons as contrary to the provisions of this chapter; and

(d) Challenge a decision by the college to deny the student access to particular types of records.

(3) A student shall not be permitted under this chapter to challenge the validity of grades given in academic courses, except on the grounds that, as a result of clerical error, the student's records fail to accurately reflect the grades actually assigned by an instructor.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-100 (~~Right of students to register objections~~) Procedure for challenges. ((Any student who objects to the accuracy or truthfulness of any information contained in any Big Bend Community College education records or portion thereof that is related to him may submit to the college's public records officer his written views regarding the same, which written objection shall then be included in such education records provided, however, no student has any right to post his objections to academic grades and have the same appear on his academic transcripts.)) (1) A student wishing to exercise the rights set forth in WAC 132R-190-090 shall first discuss with the director of admissions and registrar the nature of the corrective action sought by the student.

(2) If the informal proceedings required in subsection (1) of this section fail to resolve the student's challenge, the student may file with the public records officer provided for in chapter 132R-175 WAC a written request for a hearing (brief adjudicative proceeding pursuant to chapter 132R-02 WAC).

(3) Within a reasonable time after submission of a request for hearing, the president or his or her designee will appoint a hearing officer. The hearing officer may not have a direct interest in the outcome of the hearing.

(a) The hearing officer shall conduct a hearing concerning the student's request for corrective action within a reasonable time and shall reasonably in advance of the hearing notify the student of the date, time and place of the hearing.

(b) The student may, at his or her expense, be represented by one or more individuals of his or her choice at the hearing.

(c) The student and the college shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request for the hearing. A record shall be made of the hearing by means satisfactory to the college.

(d) Within ten days of the completion of the hearing, the hearing officer shall provide the parties with a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reasons for the decision. The decision shall be binding upon the college and the student.

(4) If the education records are held to be accurate, or not misleading or in violation of the student's right of privacy, the college will notify the student of his or her right to place in the record a statement commenting on the challenged information and/or a statement setting forth the reasons for disagreeing with the

decision. Such statement will be maintained as part of the student's education records as long as the contested portion is maintained and must be disclosed if the college discloses the contested portion of the record.

(5) If information in the education record is held to be inaccurate, misleading, or in violation of the student's right of privacy, the college will amend the record and so notify the student in writing.

AMENDATORY SECTION (Amending Order 76-9, filed 3/9/76)

WAC 132R-190-110 (~~(Emergency release.)~~) Disciplinary records. ((Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is necessary to protect the health or safety of a student or other person(s).)) Disciplinary records shall be kept separate and apart from academic records, and transcripts of a student's academic record shall contain no notation of any disciplinary action. Special precautions shall be exercised to ensure that information from disciplinary or counseling files is not revealed to unauthorized persons. Provisions shall be made for periodic review and routine destruction of inactive disciplinary records by offices maintaining such records. However, the results of any disciplinary proceeding, concerning a crime of violence as defined by 18 U.S.C. Sec. 16 may be released to an alleged victim of that crime.