

# Chapter 495A-280 WAC

## FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

### WAC

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**WAC 495A-280-010 General policy.** Bates Technical College implements the policy contained in this chapter in compliance with the Family Educational Rights and Privacy Act (20 U.S.C. §1232g) and its implementing regulation (34 C.F.R. §99). Briefly, Bates Technical College is required to provide students with access to their own education records, to permit students to challenge their records on the grounds that they are inaccurate, misleading, or otherwise in violation of the student's privacy or other right, to obtain written consent before releasing certain information and to notify students of these rights.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-010, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-015 Definitions.** For the purposes of this policy, the following definitions of terms apply:

(1) "Student" means any individual who is or has been in attendance at Bates Technical College and for whom the college maintains education records.

(2) "Education records" are defined as those records, files and documents (in handwriting, print, tapes, film, microfiche or other medium) maintained by Bates Technical College which contain information directly related to the individual student. Education records include only the following:

(a) Records pertaining to admission, advisement, registration, grading, and progress toward a degree or certificate that are maintained by the registrar.

(b) Testing information used for advisement purposes by the counseling center.

(c) Information concerning payment of fees as maintained by the registrar.

(d) Financial aid information as collected by the financial aid office.

(e) Information regarding students participating in student government that is maintained by the student programs office.

(3) "Directory information" means the student's name, address, telephone number, date and place of birth, major field of study, eligibility for and participation in officially

recognized activities, organizations, and sports, weight and height of members of athletic teams, dates of attendance, honor roll, degrees and awards received, and the most recent previous educational agency or institution attended by the student. Directory information may be disclosed at the discretion of the college and without the consent of the student unless he or she elects to prevent disclosure as provided for in WAC 495A-280-070.

(4) "Written consent" means a written authorization for disclosure of student education records which is:

(a) Signed;

(b) Dated;

(c) Which specifies the records to be disclosed; and

(d) Which specifies to whom disclosure is authorized.

(5) "Personally identifiable" means data or information which includes: The name of the student, the student's parent(s), or other family members; a personal identifier such as the student's Social Security number or student number; or a list of personal characteristics which would make the student's identity easily traceable.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-015, filed 5/26/92, effective 6/26/92.]

### **WAC 495A-280-020 Annual notification of rights.**

Bates Technical College will notify students of their rights under the Family Educational Rights and Privacy Act of 1974 by publication in the college catalog and new students during the registration process. The college shall make available upon request a copy of the policy governing release of student records. In addition, the college shall post at conspicuous places on the campus information regarding the existence of this policy and of the availability of copies.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-020, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-030 Procedure to inspect education records.** (1) Students may inspect and review their education records upon request to the appropriate college official as designated in WAC 495A-280-110.

(2) Students must submit to the appropriate college official a written request which identifies as precisely as possible the record or records he or she wishes to inspect.

(3) The appropriate college official will make the needed arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. Access must be given in forty-five days or less from the receipt of the request.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-030, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-040 Disclosure of education records.**

(1) Disclosure of education records. In addition to "directory information" the college may, at its discretion, make disclosures from education records of students to the following listed parties:

(a) College officials including college administrative and clerical staff, faculty, and students officially elected or appointed to the associated students of Bates Technical College senate or employed by the college. Access or release of records to the above is permissible only when the information is required for advisement, counseling, recordkeeping, reporting, or other legitimate educational interest consistent with their specific duties and responsibilities;

(b) To officials of another school in which the student seeks or intends to enroll;

(c) To authorized federal, state, or local officials as required by law;

(d) In connection with financial aid for which the student has applied or received;

(e) To appropriate parties in a health or safety emergency;

(f) To accrediting organizations to carry out their functions;

(g) To parents of an eligible student who claim the student as a dependent for income tax purposes; and

(h) To comply with a judicial order or a lawfully issued subpoena.

(2) The college shall not permit access to or the release of education records or personally-identifiable information contained therein, other than "directory information," without the written consent of the student, to any party other than the above.

(3) Education records released to third parties shall be accompanied by a statement indicating that the information cannot be subsequently released in a personally identifiable form to other parties without obtaining the consent of the student. The college is not precluded from permitting third party disclosure to other parties listed in (a) through (h) of this subsection.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-040, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-050 Limits on rights to review and inspect and obtain copies of education records.** (1) When a record contains information about more than one student, the student may inspect and review only the records which relate to him or her.

(2) Bates Technical College reserves the right to refuse to permit a student to inspect the following records:

(a) The financial statement of the student's parents;

(b) Letters and statements of recommendation for which the student has waived his or her right of access, or which were placed in file before January 1, 1975;

(c) Records connected with an application to attend Bates Technical College if that application was denied; and

(d) Those records which are excluded from the Federal Rights and Privacy Act definition of education records.

(3) Bates Technical College reserves the right to deny transcripts or copies of records not required to be made avail-

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able by the Federal Educational Rights and Privacy Act in any of the following situations:

(a) The student has an unpaid financial obligation to the college;

(b) There is an unresolved disciplinary action against the student.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-050, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-060 Record of request and disclosures.** (1) The college shall maintain a record of requests for and disclosures of personally identifiable information in the education records of each student. The record maintained under this section shall be available for inspection and review as provided in WAC 495A-280-050.

(2) The college shall maintain the record with the education records of the student as long as the records are maintained.

(3) The record must include:

(a) The names of parties who have received personally-identifiable information;

(b) The interest the parties had in requesting or obtaining the information; and

(c) The names and interests of additional parties to which the reviewing educational agency or institution may disclose or redisclose the information.

(4) The following parties may inspect the record of requests and disclosures relating to a student:

(a) The student;

(b) The college officials who are responsible for the custody of the records; and

(c) Persons authorized to audit the record keeping procedures of the college.

(5) The college is not required to maintain a record if the request was from, or the disclosure was to:

(a) The student;

(b) A school official;

(c) A party with written consent from the student; or

(d) A party seeking directory information.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-060, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-070 Disclosure of directory information.** Directory information may be disclosed at the discretion of the college and without the consent of the student unless the student elects to prevent disclosure by filing a written request with the registrar to prevent disclosure. The request continues in effect according to its terms unless revoked in writing by the student.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-070, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-080 Requests for corrections, hearings, adding statements to education records.** Students have the right to request to have records corrected that they believe are inaccurate, misleading, or in violation of their privacy rights. Following are the procedures for the correction of records:

(5/26/92)

(1) A student must submit a written request to amend his or her education record to the appropriate college official responsible for the custody of the record as designated in WAC 495A-280-110. The request must identify the part of the record he/she wants changed and specify why the record is believed to be inaccurate, misleading or in violation of his or her privacy or other rights.

(2) A student whose request for amendment of his or her education record has been denied may request a hearing by submitting a written request to the director of student services within ten days following the denial. The written request must be signed by the student and shall indicate the reasons why the records should be amended. The director of student services shall notify the student of the hearing within thirty days after receipt of a properly filed request. In no case will the notification be less than ten days in advance of the date, time and place of the hearing.

(3) The hearing shall be a brief adjudicative proceeding as provided in RCW 34.05.482 and 34.05.485 through 34.05.494 and shall be conducted by the student services or other appropriate committee (the chair of the committee shall be an official of the college who does not have a direct interest in the outcome of the hearing). At the hearing, the student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's education records. The student may be assisted by one or more individuals, including an attorney, at the student's expense.

(4) The student services or other appropriate committee will prepare a written decision, within thirty days after the conclusion of the hearing, 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. A copy of the decision shall be made available to the student.

(5) If the student services or other appropriate committee decides the information is inaccurate, misleading, or in violation of the student's right of privacy, the custodian of the record will amend the record and notify the student, in writing, that the record has been amended.

(6) If the student services or other appropriate committee decides that the challenged information is not inaccurate, misleading, or in violation of the student's right of privacy, the committee will notify the student in writing that the student has a right to place in the record a rebuttal statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.

(7) The student's rebuttal statement will be maintained as part of the student's education records as long as the contested portion is maintained. If the contested portion of the education record is disclosed, the statement will also be disclosed.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-080, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-090 Fees for copies.** Copies of student records shall be made at the expense of the requesting party at actual cost for copying as posted at the admissions/records office.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-090, filed 5/26/92, effective 6/26/92.]

(5/26/92)

**WAC 495A-280-100 Waiver.** A student may waive any of his or her rights under this chapter by submitting a written, signed, and dated waiver to the office of the registrar. Such a waiver shall be specific as to the records and persons or institutions covered. A waiver continues in effect according to its terms unless revoked in writing which is signed and dated.

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-100, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-110 Type and location of education records.**

Type	Location	Custodian
Admission Records,	Archives	Student Records
Cumulative Academic		Clerk
Records, Testing		
Records, Registration and		
Payment of Tuition		
Records		
Student Government	Archives	Student Records
Participation Records		Clerk
Financial Aid	Archives	Financial Aid
Records, Student		Office
Employment Records		

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-110, filed 5/26/92, effective 6/26/92.]

**WAC 495A-280-120 Remedy for students protected by this act.** A student may file a written complaint with the U.S. Department of Education regarding an alleged violation of the Federal Education Rights and Privacy Act. The address is:

Family Policy and Regulations Office  
U.S. Department of Education  
Washington, D.C. 20202

[Statutory Authority: RCW 28B.10.140, 42.30.075, chapter 34.05 RCW and 1991 c 238. WSR 92-12-017, § 495A-280-120, filed 5/26/92, effective 6/26/92.]