

# Chapter 132R-190 WAC

## IMPLEMENTATION OF THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

### WAC

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**WAC 132R-190-010 Purpose.** The purpose of this chapter is to implement 20 U.S.C. Sec. 1232g, the Family Educational Rights and Privacy Act of 1974 as amended, 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 records section of the *"Student Handbook."*

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-010, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-010, filed 3/8/94, effective 4/8/94; WSR 90-02-019, § 132R-190-010, filed 12/26/89, effective 1/26/90; Order 76-9, § 132R-190-010, filed 3/9/76.]

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

(1) "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 or a person acting for the college. The term does not include:

(a) Records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute.

(b) If the personnel of a law enforcement unit do not have access to education records under this section, the records and documents of such law enforcement unit which are kept separate, are maintained solely for law enforcement purposes, and are not made available to persons other than law enforcement officials of the same jurisdiction.

(c) In the case of persons who are employed by the college but who are not in attendance at the college, records

made and maintained in the normal course of business which relate exclusively to such person in that person's capacity as an employee and are not available for use for any other purpose.

(d) Records on a student attending the college, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his or her professional or paraprofessional capacity, or assisting in that capacity, and which are made or maintained, or used in connection with the provision of treatment to the student, and are not available to anyone other than persons providing such treatment, except that such records can be personally reviewed by a physician or other appropriate professional of the student's choice.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-020, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-020, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-020, 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. 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) Confidential letters and statements of recommendation which were placed in the student's records before January 1, 1975, or for which the student has waived his or her right in writing to inspect and review and that are related to the student's admission, application for employment or job placement, or receipt of honors. 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 admission to the college, application for employment, and receipt of an honor or honorary recognition.

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-030, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-030, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-030, filed 3/9/76.]

**WAC 132R-190-035 Availability of directory information.** 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, electronic mail address, telephone listing, date of birth, enrollment status (full-time or part-time), participation in officially recognized activities 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. 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.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-035, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-035, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-035, 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 of any student subject to the limitations outlined in subsection (2) of this section, without prior written consent of the student:

(a) 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-190-100;

(c) Authorized representatives of the Comptroller General of the United States, the Secretary, an administrative head of an education agency, 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 these representatives with respect to individual students shall not include information which permit the personal identification of such students;

(d) 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) 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, indicating all agencies or organizations which have requested or obtained access to the student's education records. The 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.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-040, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-040, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-040, filed 3/9/76.]

**WAC 132R-190-050 Distribution of information to others.** The college shall not furnish 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 a written consent from the student is obtained. The college may furnish such information without the consent of the student if it is furnished in compliance with a judicial order, or pursuant to any lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of the compliance therewith unless the court or other issuing agency orders the college not to notify the student before compliance with the subpoena. The written consent should specifically identify the records to be released, the reason for the release and to whom the records are to be released. The college president, the president's designee, or office(s) receiving a subpoena should immediately notify the attorney general.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-050, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-050, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-050, filed 3/9/76.]

**WAC 132R-190-060 Notice of rights given under Family Educational Rights and Privacy Act.** 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 as the college deems appropriate.

[Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-060, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-060, filed 3/9/76.]

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

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-070, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-070, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-070, 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. A determination that personally identifiable information was properly given to an authorized agency per WAC 132R-190-040 will be made by the college. Such written determinations may be made in consultation with any of the records officers of the college as designated in chapter 132R-175 WAC.

[Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-080, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-080, filed 3/9/76.]

**WAC 132R-190-090 Challenges—To content of records—To release of records—Or to denial of access to records.** (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.

[Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-090, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-090, filed 3/9/76.]

**WAC 132R-190-100 Procedure for challenges.** (1) A student wishing to exercise the rights set forth in WAC 132R-190-090 shall first discuss with the dean of enrollment services 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.

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(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.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-100, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-100, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-100, filed 3/9/76.]

**WAC 132R-190-110 Disciplinary records.** 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. The vice president of student services office shall keep records of all disciplinary cases, which shall be recorded on the official records of the students. 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.

[Statutory Authority: RCW 28B.50.140 and chapter 34.05 RCW. WSR 03-15-063, § 132R-190-110, filed 7/14/03, effective 8/14/03. Statutory Authority: RCW 28B.50.140. WSR 94-07-019, § 132R-190-110, filed 3/8/94, effective 4/8/94; Order 76-9, § 132R-190-110, filed 3/9/76.]