

Chapter 132U-280 WAC

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT

WAC

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WAC 132U-280-010 Purpose. The college continually receives requests from outside sources for information about students, both past and present. Under the authority of 20 U.S.C. 1232(g), the Family Educational Rights and Privacy Act (FERPA) of 1974, as amended, directs the college to adopt a policy on student education records to insure that information contained in such records is treated in a responsible manner with due regard to the personal nature of the information contained in those records. The college shall annually notify students currently in attendance of their rights under this act.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-010, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-010, filed 7/8/88.]

WAC 132U-280-015 Definitions. (1)(a) The term "education records" shall mean those records that are directly related to a student and maintained by the college.

(b) The term "education records" does not mean:

(i) Records that are kept in the sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record.

(ii) Records related to a person who is employed by the college, are made and maintained in the normal course of business, relate exclusively to such person in that person's capacity as an employee, and are not available for any other use.

(iii) Records on a student which are created or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his or her professional capacity, or assisting in a paraprofessional capacity and which are created, maintained or used only in connection with the treatment of the student, and are not available to anyone other than persons providing such treatment; provided, however, that such records can be personally reviewed by a physician or other appropriate professional of the student's choice. For the purpose of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the college.

(iv) Records that only contain information about an individual after he or she is no longer a student.

[(c)] "Student" is defined as any person who is or has been officially registered at Whatcom Community College

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for whom the college maintains education records or personally identifiable information.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-015, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-015, filed 7/8/88.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132U-280-020 Student's right to inspect and review records. (1) A student has the right to inspect and review his or her education records.

(2) If circumstances prevent the student from inspecting and reviewing his or her records, the college shall provide copies of the education records. Charges for the copies shall not exceed the cost normally charged by the college (except in cases where charges have previously been approved by the boards of trustees' action for certain specified services; e.g. official transcripts.

(3) Limitations on right to inspect and review records.

(a) If the education records of a student contain information on more than one student, the student may inspect and review or be informed of only the specific information about that student.

(b) The college does not have to permit a student to inspect and review education records that are:

(i) Financial records, including any information those records contain about a student's parents.

(ii) Confidential letters and confidential statements of recommendation placed in the student's education records, if:

(1) The student has waived his or her right to inspect and review those letters and statements; and

(2) Those letters and statements are related to the student's admission to an education institution, application for employment, or receipt of an honor or honorary recognition.

(c) A waiver under paragraph (b)(ii) of this section is valid only if:

(i) The college does not require the waiver as a condition for admission to or receipt of a service or benefit from the agency or institution; and

(ii) The waiver is made in writing and signed by the student, regardless of age.

(d) If a student has waived his or her rights under paragraph (b)(ii)(2) of this section, the college shall:

(i) Give the student, on request, the names of the individuals who provided the letters and statements of recommendation; and

(ii) Use the letters and statements of recommendation only for the purpose for which they were intended.

(e) A waiver under paragraph (b)(ii)(2) of this section may be revoked, in writing, with respect to any actions occurring after the revocation.

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(4) Student education records may be destroyed in accordance with the college's routine retention schedule. However, in no case will any record which exists at the time the request is [made] by a student for review in accordance with this section and WAC 132U-280-025 be removed or destroyed prior to providing the student access.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-020, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-020, filed 7/8/88.]

Reviser's note: RCW 34.05.395 requires the use of underlining and deletion marks to indicate amendments to existing rules, and deems ineffectual changes not filed by the agency in this manner. The bracketed material in the above section does not appear to conform to the statutory requirement.

WAC 132U-280-025 Request to amend education records—Appeal procedure. (1) A request by a student to amend an education record should be made in writing to the college individual who created the record or, if no longer employed by the college, the department having custody of the record.

(2) An individual or department must respond to a request to amend education records within a reasonable period of time, but in no case more than forty-five days after the request has been made. A college individual or department that denies a student's request or is unable to comply with the request within the above-state time period shall inform the student of that fact and the reasons in writing.

(3)(a) A student who feels that his or her request has not been properly answered by a particular individual or department or who feels that the information contained in those records is incorrect should contact the appropriate supervisor responsible for the individual or department for mediation.

(b) In cases where a student remains dissatisfied after consulting with the appropriate supervisor, the student may then request a hearing by the appropriate vice president or his or her designee(s). If the vice president is also the supervisor who handled the matter in (3)(a), it will be referred to another vice president who does not have a direct interest in the outcome of the hearing. Following the hearing, the hearing officer shall render his or her decision, in writing, within a reasonable period of time. In all cases, the decision of the hearing officer shall be final.

(c) In no case shall any appeal by a student be considered by the college which has not been filed with that body in writing within ninety days from the date of the initial request to the custodian of the record.

(d) The college shall not review any matter regarding the appropriateness of official academic grades or disciplinary records beyond that provided for in WAC 132U-120-100, et seq.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-025, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-025, filed 7/8/88.]

WAC 132U-280-030 Release of education records. (1) The college shall not permit access to or release of education records or personally identifiable information contained therein, without the written consent of the student, to any party other than the student.

(2) The college may permit access or release of education records, without student consent, under the following conditions:

(a) College officials, when the information is required for a legitimate educational interest within the performance of their responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those responsibilities. College officials will be defined by college policy and made public through the college's annual Notification of Student Rights under FERPA, which will be published in the college catalog and on the college's public web site.

(b) Federal and state officials requiring access to education records in connection with the audit and evaluation or a federally or state-supported education program or in connection with the enforcement of the federal or state legal requirements which relate to such programs. In such cases the information required shall be protected by the federal or state official in a manner which will not permit the personal identification of students and their parents to other than those officials and such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation or enforcement of legal requirements.

(c) Agency officials requesting information in connection with a student's application for, or receipt of financial aid, if the information is necessary to determine eligibility, amount or conditions of aid, or to enforce the terms and conditions of aid.

(d) Organizations conducting studies for or on behalf of the college for purposes of developing, validating or administering predictive tests, administering student aid programs, and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purposes for which it was provided.

(e) Accrediting organizations in order to carry out their accrediting functions.

(f) Any person or entity designated by judicial order or lawfully issued subpoena or court order, upon condition that the student is notified of all such subpoenas or court orders in advance of the compliance therewith; except for subpoenas or court orders that specifically direct the college not to disclose the existence or contents of the subpoena or court order. Any college individual(s) or department(s) receiving a subpoena or court order for education records should immediately notify the college registrar who will contact the college's assigned attorney general for assistance.

(g) Certain items of personally identifiable information, commonly referred to as "directory" information, to parties who demonstrate a legitimate educational interest, as determined by the college. Directory information will be defined by college policy and made public through the college's annual Notification of Student Rights under FERPA, which will be published in the college catalog and on the college's public web site.

(h) Officials from the U.S. Department of Defense for the purpose of military recruiting, as authorized under 32 C.F.R. Part 216 (Solomon Amendment), which requires the college to provide "student recruitment directory information" regarding students at least seventeen years of age who are registered for at least one credit. Students who have for-

mally requested the college withhold "directory information" are excluded.

(i) Any other officials with legitimate educational interest as authorized under C.F.R. 99.31 and identified via the annual Notification of Student Rights under FERPA, which is published in the college catalog and on the college public web site.

(3) In cases where records are made available without student release as permitted by subsection (2)(b), (c), (d), (e), (f), and (i) of this section, the college shall maintain a record kept with the education record released which will indicate the parties which have requested or obtained access to a student's records maintained by the college and which will indicate the legitimate interest of the investigating party. Releases in accordance with subsection (2)(a), (g), and (h) of this section need not be recorded.

(4) Where the consent of a student is obtained for the release of education records, it shall be in writing, signed and dated by the student giving such consent, and shall include:

(a) A specification of the records to be released;

(b) The reasons for such release; and

(c) The names of the parties to whom such records will be released.

(5) Personally identifiable education records released to third parties, with or without student consent, shall be accompanied by a written statement indicating that the information cannot be subsequently released in a personally identifiable form to any other parties without obtaining consent of the student.

(6) Students may direct the college to withhold "directory" information, referred to in (2)(g) and (h), through written notification to the college registrar at any time throughout the student's enrollment at the college.

(7) Information from education records may be released by a college official 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).

(8) The college registrar is the official custodian of education records and is the only official who can issue an official transcript of the student's academic record.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-030, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-030, filed 7/8/88.]

WAC 132U-280-035 College compliance. The college will develop policies and procedures to implement chapter 132U-280 WAC and all college individuals or offices having custody of education records will comply with those policies and procedures. The college will be responsible for periodic review of all [related] policies and procedures.

The college does not maintain confidential educational records regarding student political or ideological beliefs or associations.

[Statutory Authority: RCW 28B.50.130, 28B.50.140. WSR 07-15-033, § 132U-280-035, filed 7/12/07, effective 8/12/07; WSR 88-15-005 (Order 88-03), § 132U-280-035, filed 7/8/88.]

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