

Chapter 174-280 WAC

FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974

WAC

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WAC 174-280-010 General policy. The Evergreen State College must insure that information contained in student records is treated responsibly with due regard for its personal nature, and for the students', college's, and community's needs. The following guidelines implement this general policy and respond to the requirements of Public Law 93-380 (Family Educational Rights and Privacy Act of 1974).

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-010, filed 1/26/90, effective 2/26/90.]

WAC 174-280-015 Definitions. For the purposes of WAC 174-280-010 through 174-280-045, the following terms shall have the definitions shown:

(1) A "student" is any person who is or has been registered at Evergreen, with respect to whom Evergreen maintains educational records or other information personally identifiable by name, identification number, or other names of recognition.

(2) The term "educational records" means those records, files, documents and other materials maintained by Evergreen which contain information directly related to the individual student.

(3) The term "directory information" means the student's name, address, telephone number, dates of attendance, date and place of birth, major field of study, participation in officially recognized activities and sports, degrees and awards received, and the most recent previous educational agency or institution attended by the student.

(4) The term "crime of violence" means:

(a) An offense that has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or

(b) Any other offense that is a felony and that, by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(5) "Sex offense" is any sexual act directed against another individual, forcibly and/or against their will; or non-forcibly and/or against their will where the individual is incapable of giving consent.

[Statutory Authority: RCW 28B.40.120(12). WSR 99-12-024, § 174-280-015, filed 5/25/99, effective 6/25/99. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-015, filed 1/26/90, effective 2/26/90.]

(5/25/99)

WAC 174-280-020 Disclosure to the student. (1) A student has the right to inspect, and request copies of his or her education records, except that a student is not entitled to access to:

(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 person appointed to replace or assume responsibilities of the originator of the records;

(b) Records made and maintained in the normal course of business which relate exclusively to the person's capacity as an employee and are not available for any other purposes;

(c) Records on a student which are created or maintained by a physician, psychiatrist or other officially recognized professional or para-professional acting in his or her professional or para-professional capacity, and which are created, maintained or used only in connection with the provision of treatment to 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;

(d) A parent's confidential financial statement unless the student's parent or guardian has granted permission for access in writing either on the statement or in a separate authorizing letter;

(e) Records or/and documents of the security office which are kept apart from educational records and which are maintained solely for law enforcement purposes and which are not made available to persons other than law enforcement officials of the same jurisdiction, if security office personnel do not have access to educational records under subsection (1) of this section.

(2) Recommendations, evaluations or comments concerning a student, whether or not provided in confidence, either expressed or implied, as between the author and the recipient, shall nonetheless be made available to the student, except that:

(a) The student may specifically release his right to review where the information consists only of confidential recommendations respecting admission to any educational institution, or an application for employment, or receipt of an honor or honorary recognition, by submitting the release in writing to the Evergreen individual(s) or office(s) having custody of the particular record;

(b) A student's waiver of his or her right of access to confidential statements shall apply only if the student is, upon request, notified of the names of all persons making confidential statements concerning him or her, the dates of such confidential statements were provided; and such confidential statements are used solely for the purpose for which they were originally intended, and such waivers are not required

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as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from Evergreen;

(c) Recommendations, evaluations or comments concerning a student that have been provided in confidence, either expressed or implied, as between the author and the recipient, prior to January 1, 1975, shall not be subject to release under this subsection: Provided, however, That upon request the student is notified of the names of the authors of all such confidential records, the dates appearing on such confidential records and the purpose for which each confidential record was provided. Such records shall remain confidential and shall be released only with the consent of the author. The student will initiate any request for release by direct contact with the author. Confidential information will then only be released to the student upon receipt of written consent of the author. Such records shall be used by the institution only for the purpose for which they were originally intended.

(3) Where requested records or data include information on more than one student, the student shall be entitled to receive or be informed of only that part of the record or data that pertains to that student.

(4) Charges for copies of education records shall not exceed one dollar per page.

(5) The registrar is the official custodian of academic records and therefore is the only official who may issue a transcript of the student's official academic record or prepare other copies of the student's records on file in the registrar's office.

(6) Student education records may be destroyed in accordance with routine retention schedules. In no case will any record which is requested by a student for review in accordance with this section and WAC 174-280-025 be removed or destroyed prior to informing the student and, if requested, providing the student access.

(7) A student's right to inspecting and securing copies of his or her education records passes to the student's heir(s) upon his or her death.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-020, filed 1/26/90, effective 2/26/90.]

WAC 174-280-025 Requests and appeal procedures.

(1) A request by a student for review of information should be made in writing to the Evergreen individual(s) or office(s) having custody of the particular record. The individual(s) or office(s) having custody of the record requested shall require presentation of proper identification, including validation of identity by way of student's photo I.D. card and/or signatures, from the requesting student.

(2) The individual(s) or office(s) must respond to a request for educational records within a reasonable period of time, but in no case more than forty-five days after the request has been made. Those specific cases identified in WAC 174-280-020(1) are exempted from coverage under this section.

(3) After reviewing his or her records, a student may challenge the content of the records if the student believes them to be inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. In such cases the student should contact the appropriate dean or director responsible for custody of the record. If a student has been

unable to negotiate correction of or deletion of inaccurate, misleading or otherwise inappropriate data, he or she may pursue the grievance procedures in chapter 174-108 WAC and may place a written statement of rebuttal in his or her official records.

(4) Request for public records must be submitted in accordance with procedures outlined in chapter 174-108 WAC.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-025, filed 1/26/90, effective 2/26/90.]

WAC 174-280-030 Release of personally identifiable records. (1) 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 following:

(a) Evergreen staff, faculty, and student employees when the information is specifically required for a legitimate educational interest within the performance of their assigned responsibilities to the college, with the understanding that its use will be strictly limited to the performance of those assigned responsibilities;

(b) Federal and state officials requiring access to educational records in connection with the audit and evaluation of 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 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) Agencies or organizations requesting information specifically required as a part of a student's application for, or receipt of, financial aid, with the understanding that its use will be strictly limited to that purpose;

(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 purpose for which it was provided;

(e) Accrediting organizations in order to carry out their accrediting functions, 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 purpose for which it was provided;

(f) Any person or entity designated by judicial order or lawfully issued subpoena, upon condition that the student is notified of all such orders or subpoenas in advance of compliance therewith. Any college individual(s) or office(s) receiving a subpoena or judicial order for educational records should also immediately notify the assistant attorney general assigned to Evergreen;

(g) A collection agency under contract to Evergreen when necessary to collect past due accounts the student owes

to Evergreen upon the condition that the student is forwarded a notice at least ten days in advance of the date the account is transferred;

(h) Results of campus disciplinary action(s) involving a crime of violence and/or sex offense(s) will be disclosed to the accuser upon request. Results will be disclosed only after a finding has been made and appeal options have been exhausted under The Evergreen State College's student conduct code.

(2) Where the consent of a student is obtained for the issuance of education records, it shall be in writing, signed and dated by the student giving the release, and the names of the parties to whom such records will be released, and may include the reasons for such release, except that transcripts may be issued to other colleges or universities for admission as a result of telephone requests from the student.

(3) In cases where records are made available without student release as permitted by subsection (1)(b), (c), (d), (e), (f), and (g) of this section, the appropriate Evergreen official shall maintain a record, which will be made available to the student upon request kept with the education record, 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 (1)(a) of this section need not be recorded.

(4) 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.

(5) Students may request that the college not release directory information by written notice to the registrar.

(6) Information from education records may be released to appropriate persons in connection with an emergency if the knowledge of such information is clearly necessary to protect the health or safety of a student or other person(s).

(7) Student information in computer files may be released only by the Evergreen individual or office which maintains the respective files.

[Statutory Authority: RCW 28B.40.120(12). WSR 99-12-024, § 174-280-030, filed 5/25/99, effective 6/25/99. Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-030, filed 1/26/90, effective 2/26/90.]

WAC 174-280-035 College records. (1) All Evergreen individual(s) or office(s) which have custody of education records will develop implementation procedures in accordance with WAC 174-280-010 through 174-280-045.

(2) 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 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.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-035, filed 1/26/90, effective 2/26/90.]

(5/25/99)

WAC 174-280-040 Release of publicity information.

The college relations officer of the college may refer to "directory information" concerning the availability of information which may be released generally concerning enrolled students. Students may request that the college not release publicity information by written notice to the college relations office.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-040, filed 1/26/90, effective 2/26/90.]

WAC 174-280-045 Notice of rights. In accordance with the requirements of the federal statute, the college through the office of the dean of enrollment services will annually notify all enrolled students of their rights under WAC 174-280-010 through 174-280-045 to include:

(1) The types of educational records and information contained therein which are directly related to students and maintained by the institution.

(2) The name and position of the official responsible for the maintenance of each type of record, the persons who have access to those records, and the purposes for which they have access.

[Statutory Authority: Chapter 34.05 RCW. WSR 90-04-011, § 174-280-045, filed 1/26/90, effective 2/26/90.]