



## Manual of Policy and Procedures

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### PURPOSE

The Family Educational Rights and Privacy Act of 1974 (“FERPA”) affords students certain rights with respect to their educational records. The primary rights afforded to each student include, but are not limited to, the right to inspect and review their education records, the right to request amendment of records, and the right to limit disclosure of information from the records.

In accordance with federal law and regulations issued by the U.S. Department of Education, the Vermont State Colleges System (“VSCS”) has adopted the following policies and procedures for each of its Institutions. The purpose of this VSCS policy is to set forth the rights of inspection and requesting amendment, and the prohibitions against unauthorized dissemination of educational information. This Policy incorporates and is to be read consistent with, and not in addition to, all the definitions, rights and requirements contained in 20 U.S.C. §1232g and 34 C.F.R. Part 99.

### POLICY

#### **I. STUDENT ACCESS TO EDUCATION RECORDS**

- A. Students have the right to inspect and review their education records.

“Student” means any individual who is or has been in attendance at one of the VSCS Institutions and whose educational records are maintained thereby.

“Education records” means records maintained by the VSCS that are directly related to a student. Education records may be found in papers, files, tapes, machine readable materials, documents, computer databases or any other written or recorded matters, regardless of physical form or characteristics.

Education records DO NOT include: notes or records which are not accessible or revealed to other personnel and are in the sole possession of the maker; law

enforcement or campus security records that are solely for law enforcement purposes; employment records relating to employment by the institution (unless employment is contingent on student status); records relating to treatment provided by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional and disclosed only to individuals providing treatment, and records of alumni created after they are no longer a student at a member college.

Parents' financial statements (including FAFSA) are also education records. Under FERPA, however, the VSC need not allow the student to review them.

**B. Procedure for Student Inspection and Review of Their Education Records**

1. Students shall submit to the Institution's Registrar a written request identifying as precisely as possible the record(s) to be inspected.
2. The registrar or other appropriate record custodian will make the needed arrangements for student access as promptly as possible and will notify the student of the time and place where the record(s) may be inspected. Access will be provided within 45 days or less from the receipt of the written request.
3. The following documents shall be removed from an education record before the student views the record unless the sensitive information contained therein can be cloaked or otherwise kept from viewing:
  - (a) information that pertains to another student,
  - (b) financial records of the student's parents, and
  - (c) confidential letters of recommendation and confidential statements of recommendation in accordance with 34 C.F.R. §99.12 (b) and (c).

**II. PUBLIC ACCESS TO STUDENT INFORMATION**

- A. The VSC may NOT disclose Personally Identifiable Information from education records unless the disclosure meets one or more of the requirements of subsections B or C of this section.

"Personally Identifiable Information" (PII) includes but is not limited to the student's name, address, student identification numbers, social security number, other personal identifiers, ethnicity, race, nationality, and gender;

name and address of student's parent or other family members; and a list of personal characteristics or other information that would make the student's identity easily traceable.

- B. The VSC may disclose Directory Information without prior written consent of the student.
1. "Directory information" means information which would not generally be considered harmful to the student or an invasion of privacy, if disclosed. For the purposes of this policy, directory information includes the following: name, Chosen Name, home and college address, telephone listing, email address, date of birth, major, enrollment status (full-time or part-time), enrollment level (undergraduate or graduate), dates of attendance, degrees and awards received, weight and height of athletic team members, photographs, most recent and previous educational institutions attended, and participation in officially recognized activities and sports.
  2. Release of directory information is permitted but not required under FERPA. The decision to disclose directory information will be made at the discretion of the appropriate school official.
  3. Students may opt out of the release of all directory information by submitting a Request to Withhold Directory Information form. Upon receipt of this form, the VSCS shall release no directory information to any external third party without prior student consent except as may be otherwise permitted by law.
- C. VSCS may choose to release PII from education records to the student and, under the following circumstances and consistent with FERPA, to third parties:
1. Where the student consents to the release by signing and dating a written statement of consent before disclosing protected information. The written consent must specify: the record(s) to be disclosed, the purpose of the disclosure, and the party or class of parties to whom the disclosure must be made.
  2. Where the disclosure is to school officials with legitimate educational interest. For the purposes of this section, "school officials" include persons employed by the VSCS in an administrative, supervisory, academic, research, or support staff position (including law enforcement

unit personnel and health staff). “School officials” also include persons, companies or agencies with whom the VSCS has contracted to provide services (i.e., attorney, auditor, collection agent, educational service provider etc.), a person serving on the board of trustees, and a student serving on an official committee or assisting another school official in performing his or her own tasks. For the purposes of this section, “Legitimate Educational Interest” means: (a) the record or information requested is relevant and necessary to the accomplishment of some task or determination; (b) the task or determination is an employment or contractual responsibility for the inquirer or is properly assigned subject matter for the inquirer’s task or determination; and (c) the task or determination is consistent with the purpose for which the record or information is maintained.

3. Where special circumstances are present including the following as well as any other circumstances permitted under 34 C.F.R. §99.31(a):
  - a. Upon request by officials of another school in which a student seeks or intends to enroll. A member Institution may, at its discretion, forward education records to other agencies or institutions that have requested the records and in which the student seeks or intends to enroll or is already enrolled so long as the disclosure is for the purposes related to the student’s enrollment or transfer or to the student’s dual enrollment;
  - b. To certain federal, state, or local education officials in connection with state or federally supported educational programs;
  - c. To authorized representatives of the Comptroller General of the United States, the Secretary of Education or State educational authorities, or authorized representatives of the Attorney General for law enforcement purposes;
  - d. To organizations conducting certain studies/research for or on behalf of the VSCS;
  - e. To comply with a judicial order or a lawfully issued subpoena or IRS summons after making a reasonable effort to notify student in advance;
  - f. To appropriate parties in a health and/or safety emergency;
  - g. When an Institution has found, in the event of disciplinary proceedings against a student who is an alleged perpetrator of a violent crime (18 USC section 16) or non-forcible sex offense, that the student committed a violation of Institution rules or policies,

the final results of such disciplinary proceedings may be released. However, the Institution may only release the name of the student, violation committed, sanction imposed, and the name(s) of other student(s) involved, such as the victim or witness, but only with the prior written consent of the other student(s).

- h. To the parents of a student under the age of 21 where the VSCS has determined that the student has committed a disciplinary violation with respect to use or possession of alcohol or a controlled substance;
- i. To the parents of dependent students, as defined in Section 152 of the Internal Revenue Code of 1986;
- j. To accrediting organizations in order to conduct accrediting functions;
- k. To an authorized representative of institutions from which a student has received financial aid or the student had applied for financial aid.
- l. In accordance with the Solomon Amendment. The Solomon Amendment (32 CFR 216) requires institutions to provide specified information about individual students to representatives of the U.S. Department of Defense for military recruiting purposes unless the student has formally requested the school to withhold directory information from all third parties under B above. The specified “student recruiting information” includes student name, address, telephone listing, date and place of birth, level of education, academic major, degrees received, and the most recent previous education institution attended.

With the exception of the mandatory reporting of student recruiting information under Solomon, disclosure without consent in these special circumstances is permitted but not required. The decision to disclose any information in these special circumstances will be made at the discretion of the appropriate school official.

The VSC shall maintain records of requests and disclosure of non-directory information under this section C3 above. Generally, the person or agency making a request for disclosure must submit a letter stating: the name of the student, name of the person making the request, the names of the parties to whom the information may be disclosed, the legitimate interest of the party making the request and the legitimate interest of the party who may receive the information. All requests for

disclosure should be submitted to the Registrar of the student's Institution.

### **III. AMENDMENT OF EDUCATION RECORDS**

Students have the right to ask to have record(s) corrected that they believe are inaccurate, misleading, or in violation of their privacy rights.

#### **A. Procedure to Amend Education Record(s)**

1. A student must submit a written request to the Institution Registrar to amend a record. In so doing, the student should identify the part of the record she/he wants changed and specify why she/he believes it is inaccurate, misleading or in violation of his/her privacy rights.
2. VSCS member Institutions have the authority to accept or reject any requests. If a member Institution decides not to comply, the VSCS will notify the student of the decision and advise him/her of his/her right to a hearing to challenge the information believed to be inaccurate, misleading, or in violation of the student's privacy rights.
3. Upon request for a hearing, the VSCS member institution will arrange for a hearing and notify the student of the date, time, and place of the hearing.
4. The hearing will be conducted by a hearing officer who is a disinterested party; however, the hearing officer may be an official of the VSCS member Institution. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend his/her education record(s).
5. The VSCS member institution will prepare a written decision based solely on the evidence presented at the hearing. The decision will include a summary of the evidence presented and the reason for the decision.
6. If the VSCS member institution decides that the challenged information is not inaccurate, misleading, or in violation of the student's privacy rights, it will notify the student that she/he has a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
7. The student's statement will be maintained as part of the student's education records as long as the contested portion of the educational record is maintained. If the VSCS member Institution discloses the contested portions of the records, it must also disclose the statement.
8. If the VSCS member Institution decides that the information is

inaccurate, misleading or in violation of his/her privacy rights, it will amend the record and notify the student, in writing, that the record has been amended.

#### IV. **STUDENT COMPLAINTS REGARDING ALLEGED FERPA VIOLATIONS**

A student may file a complaint with the Department of Education Family Compliance Office regarding an alleged violation under the Act: Family Compliance Office, U.S. Dept. of Education, 400 Maryland Avenue, S.W. Washington, DC 20202-4605.

#### V. **ANNUAL COLLEGE NOTIFICATION**

- A. Each VSCS member Institution annually shall notify students currently in attendance, of their rights under the 20 U.S.C. §1232g and 34 C.F.R. Part 99.
- B. The notice must inform students that they have the right to:
1. Inspect and review the student's education records;
  2. Seek amendment of the student's education records that the parent or eligible student believes to be inaccurate, misleading, or otherwise in violation of the student's privacy rights;
  3. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the 20 U.S.C. §1232g and 34 C.F.R. [§ 99.31](#) authorize disclosure without consent; and
  4. File with the U.S. Department of Education a complaint under 34 C.F.R. [§§ 99.63](#) and [99.64](#) concerning alleged failures by the member college to comply with the requirements of FERPA and its implementing regulations.
- C. The notice shall include all of the following:
1. The procedure for exercising the right to inspect and review education records.
  2. The procedure for requesting amendment of records under [§ 99.20](#).
  3. A specification of criteria for determining who constitutes a school official and what constitutes a legitimate educational interest.

- D. The member Institution may provide this notice by any means that are reasonably likely to inform the students of their rights and shall effectively notify students who are disabled.

Signed by:



Jeb Spaulding, Chancellor

Date	Version	Revision	Approved By
12/9/2005	1.0	Adopted	VSCS Board of Trustees
6/7/2007	2.0	Update	VSCS Board of Trustees
10/31/2016	3.0	Revision	VSCS Board of Trustees
6/20/2019	4.0	General Update	VSCS Board of Trustees