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| <p>Privacy of Student Records - Family Educational Rights & Privacy Act (FERPA) Policy & Procedures</p> | <p>BOT Approved: February 19, 2019 <i>Procedural Update: 10/1/2020 to cover acceptance of secure electronic requests.</i></p> |
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PURPOSE:

The purpose of this Privacy of Student Records Policy is to provide guidance and instruction related to the protection of and access to students' personally identifiable information and educational records held by the College, in accordance with the Family Educational Rights and Privacy Act (FERPA), as amended. The law applies to all schools that receive funds under an applicable program of the U.S. Department of Education.

In addition to FERPA, the Higher Education Act of 1965 (HEA) requires that FAFSA data and all information collected to determine financial aid is kept separate from other data collected from the student. The HEA requires that FAFSA data be used only for the application, awarding, and administration of financial aid.

DEFINITIONS:

- A. *Family Educational Rights and Privacy Act (FERPA)* refers to a federal law (20 U.S.C. § 1232g; 34 CFR Part 99) that protects the privacy of student education records. The law applies to all schools receiving funds under any applicable program of the U.S. Department of Education. FERPA applies to all education records, credit and non-credit, of any student who is 18 years of age or older or who attends a post-secondary institution at any age.
- B. *Solomon Amendment* refers to the 1996 amendment which requires the College to provide the U.S. Department of Defense representatives access to student recruiting information.
- C. *Eligible student* as defined by FERPA and as used in this Policy refers to any individual attending a post-secondary institution for whom the College maintains an education record, regardless of age, payment status, or current enrollment.
- D. *Personally Identifiable Information (PII)* refers to data or information which includes, but is not limited to: the student's name; the name of the student's parent or other family members; the address of the student or student's family; a personal identifier, such as the student's social security number, student number, or bio-metric record; other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name; other information that, alone or in combination is linked to a specific student that would allow an individual, who does not have personal knowledge or the relevant circumstance, to identify the student with reasonable certainty; or information requested by a person who the College reasonably believes knows the identity of the student to whom the education record relates.
- E. *Education Record* refers to any record maintained by the College or by a party acting for the College that is directly related to a student or students. This record may contain a student's name or information from which a student, or students, can be personally identified.

Education records include: files, documents, and materials in whatever medium (handwritten, print, electronic), which contain information directly related to the student. Education records include records of work-study students.

Education records do not include the following:

- a. Records that are kept in sole possession of the maker, are used only as a personal memory aid, and are not accessible or revealed to any other person;
- b. Records relating to an individual who is employed by the College, made and maintained in the normal course of business, related exclusively to the individual in the capacity as an employee, and are not available for use for any other purpose;

- c. Records on a student who is 18 years of age or older, or attending an institution of post-secondary education, regardless of age that are: made or maintained by a physician, psychiatrist, psychologist, or other medical provider; made, maintained, or used only in connection with the treatment of the student; and disclosed only to individuals providing the treatment. For this definition, “treatment” does not include remedial educational activities or activities that are part of the program of instruction at GC.
- F. *Attendance* refers to physical presence within a classroom; or through electronic formats for students who are not physically present in the classroom.
- G. *Dates of enrollment* refers to the period of time during which a student attends or attended an institution. The term does not include specific daily records of a student’s attendance at the institution.
- H. *College Catalog* refers to a publication that is the official College record of requirements for admissions, registration, policies/procedures and program content. It is published once a year, with updates posted throughout the year to www.garrettcollege.edu.
- I. *Disclosure* refers to the action of permitting access to, or the release, transfer, or other communication of, personally identifiable information contained in an education record by any means, including oral, written, or electronic to any party except the party identified and the party that provided or created the record.
- J. *Workdays* refers to Monday through Friday and does not include weekends, holidays, scheduled breaks, or other days the College is closed.

POLICY STATEMENT:

Family Educational Rights and Privacy Act

Garrett College is committed to protecting the rights of students under the Family Educational Rights and Privacy Act (FERPA), as amended, and the College will annually notify students in attendance of their rights under FERPA. The Family Educational Rights and Privacy Act affords students certain rights with respect to their education records. These rights include:

- The right to inspect and review the student’s education records within 45 days of the day the College receives a request for access.
- The right to request the amendment of the student’s education records that the student believes is inaccurate.
- The right to consent to disclosures of personally identifiable information contained in the student’s education records, except to the extent that FERPA authorizes disclosure without consent.
- The right to file a complaint with the U.S. Department of Education concerning alleged failures by Garrett College to comply with the requirements of FERPA.
 - Written complaints can be directed to:
Family Policy Compliance Office
U.S. Department of Education
400 Maryland Avenue SW
Washington, DC 20202-4605

The FERPA rights of an eligible student commence when the student begins attendance at the College, as demonstrated by the student’s physical presence in at least one classroom session or at least one log-in to an on-line course for which the student has registered. Those who apply but never register, as well as those who register but never attend/log-in, are not protected under FERPA. Upon the death of a student, all FERPA rights cease.

School Officials and Legitimate Educational Interests

One of several FERPA authorized exceptions is disclosure to school officials with legitimate educational interests. The annual notification to students must include who is considered a “school official” and what constitutes a “legitimate educational interest”.

- *School official* refers to a person employed by the College in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff); a person or company with whom the College has contracted (such as an attorney, auditor, or collection agent); a person serving on the Board of Trustees; or a student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
- *Legitimate Educational Interest* refers to the demonstrated “need to know” by those College officials who act in the student’s educational interest, including faculty, administration, support staff, and other persons who manage student record information including student employees.
- *Need to Know* refers to the act of needing information in a student’s education record for the purpose of performing the required task(s) and responsibilities with an employee’s job.

Directory Information

In accordance with the provisions of the Act, directory information may be disclosed without the student’s prior consent unless the student submits a *Non-Disclosure of Information request* with the Office of Registration and Records (ORR). *Non-Disclosure of Information requests* must be submitted to the ORR within two weeks after the first day of class for the semester.

“Directory Information” means information contained in a student’s education record that would not generally be considered harmful or an invasion of privacy if disclosed. It includes, but is not limited to, the student’s name, address, home town, telephone listing, electronic mail address, photograph, date and place of birth, major field of study, dates of attendance, grade level, enrollment status (e.g., under-graduate or graduate; full-time or part-time), participation in officially recognized activities and sports, degrees, honors, and awards received, dates of conferral, and the most recent educational agency or institution attended. **Note that the fact that this information can be disclosed does not require the College to do so.**

Notice to Reflect Possible Federal and State Data Collection and Use

As of January 3, 2012, the U.S. Department of Education’s FERPA regulations expanded the circumstances under which students’ education records and personally identifiable information (PII) contained in such records - including Social Security Number, grades, or other private information - may be accessed without student consent.

First, the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, or state and local education authorities (“Federal and State Authorities”) may allow access to a student’s records and PII without student’s consent to any third party designated by a Federal or State Authority to evaluate a federal- or state-supported education program. The evaluation may relate to any program that is “principally engaged in the provision of education,” such as early childhood education and job training, as well as any program that is administered by an education agency or institution.

Second, Federal and State Authorities may allow access to a student’s education records and PII without student’s consent to researchers performing certain types of studies, in certain cases even when the College objects to or does not request such research. Federal and State Authorities must obtain certain use-restriction and data security promises from the entities that they authorize to

receive students' PII, but the Authorities need not maintain direct control over such entities. In addition, in connection with Statewide Longitudinal Data Systems, State Authorities may collect, compile, permanently retain, and share without a student's consent PII from student's education records, and they may track a student's participation in education and other programs by linking such PII to other personal information about said student that they obtain from other Federal or State data sources, including workforce development, unemployment insurance, child welfare, juvenile justice, military service, and migrant student records systems.

Mandatory Record of Disclosures

In accordance with FERPA, the College will record disclosures of PII that were disclosed without the student's written consent. FERPA regulations do not require the College to record disclosures to College officials, judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student.

Solomon Amendment

In accordance with the Solomon Amendment, the College will give military recruiters access to campus and to lists of students, including personally identifiable student information. The Solomon Amendment supersedes FERPA.

PROCEDURES:

Annual Notification of Rights

FERPA requires the College provide annual notification to students in attendance of their rights under FERPA. It does not require the College individually notify students. Rather, the school may provide the notice by any means likely to inform eligible students of their rights. A college website should not be the exclusive means of notification.

1. Students will be informed annually of their rights under FERPA by a) publication in the College catalog and b) posting on the College website.
2. The annual notification includes information regarding the student's right to inspect and review his/her education records, the right to seek to amend the records, the right to consent to disclosure of PII from the record (except in certain circumstances), and the right to file a complaint with the Family Compliance Office of the U.S. Department of Education regarding an alleged failure of GC to comply with FERPA.
3. The annual notification must inform eligible students of the College's definition of the term "College official" and "legitimate educational interest."

Inspect and Review

Students have the right to inspect and review the student's education records within 45 days of the day the College receives a request for access.

1. Students should submit to the Office of Records and Registration (ORR) written requests that identify the record(s) they wish to inspect.
2. The ORR will make arrangements for access and notify the student of the time and place where the records may be inspected. If the records are not maintained by the ORR, the Office shall advise the student of the correct official to whom the request should be addressed.

Request Amendment

Students have the right to ask the College to amend a record that they believe is inaccurate.

1. Students should write the Office of Records and Registration (ORR) and clearly identify the part of the record they want changed, and specify why it is inaccurate.

2. The ORR will contact the College official responsible for said record. If the College official decides not to amend the record as requested by the student, the College official will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment.
3. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

Consent to Disclosures / Release of Student Information

Students must consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that FERPA authorizes disclosure without consent.

1. Students may authorize the release of their PII via written or authenticated electronic consent. Students may submit a Student Information Release (via secure log-in) and the disclosure authorization will be honored until the student-specified expiration date or until the student revokes the consent. A Notary Public may also certify a *Release of Student Information* form.
2. The Office of Records and Registration (ORR) will record release of information authorizations in the student's computerized educational record.
3. With the exception of non-blocked directory information, the College does not disclose any student records to parents, guardians, spouses, etc., without written consent from the student, regardless of the student's age.
4. The College has the right to disclose information to the extent that FERPA authorizes:
 - a. Directory information, unless blocked by the student.
 - b. School officials with legitimate educational interests. A school official is a person employed by the College in an administrative, supervisory, academic or research, or support staff position (including law enforcement unit personnel and health staff). A school official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
 - c. Appropriate officials in connection with a health or safety emergency.
 - d. Accrediting organizations carrying out their accrediting functions.
 - e. A person or company with whom the College has contracted (such as an attorney, auditor, or collection agent)
 - f. A person serving on the College's Board of Trustees.
 - g. A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
 - h. Appropriate parties in response to a legally issued subpoena (reasonable notification will be attempted if not blocked by the subpoena).
 - i. Officials of another school in which a student seeks or intends to enroll.
 - j. Military recruitment services pursuant to the Solomon Amendment.
 - k. Authorized representatives of the U.S. Comptroller General, the U.S. Attorney General, the U.S. Secretary of Education, the U.S. Department of Treasury, or state and local educational authorities, such as a state post-secondary authority that is responsible for supervising the College state supported education programs.
 - l. General public regarding the final results of a disciplinary proceeding if the College determines the student is an alleged perpetrator of a crime of violence or non-forcible sex-offense and the student has committed a violation of College policies and procedures with respect to the allegation. The disclosure of final results must include only the name of the student, the violation committed, and any sanction imposed by the institution against the student.
 - m. United States Department of Education and officials in connection with financial aid for which the student has applied or which the student has received, if the

information is necessary to determine eligibility for the aid, determine the amount of the aid, determine the conditions of the aid, or enforce the terms and conditions of the aid.

- n. Organizations that are conducting studies for, or on behalf of, the College, in order to develop, validate, or administer predictive tests; administer student aid programs; or improve instruction.
 - o. Parents of a student regarding the student's violation of federal, state, or local law, or rule or policy of the College governing the use or possession of alcohol or a controlled substance if the College determines the student committed a disciplinary violation and the student is under the age of 21.
 - p. Parties requesting Directory Information, unless restricted by a *Non-Disclosure of Information* request from the student.
 - q. U.S. Attorney General or his/her designee in order to comply with an ex parte order in connection with the investigation of prosecution of an offense listing in 18 U.S.C. 2332b(g)(5)(B).
 - r. Victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, subject to the requirements regulation. The disclosure may only include the final results of the disciplinary proceeding with respect to that alleged crime or offense, regardless of the finding.
5. The College will maintain a record of disclosures of personally identifiable information that were disclosed without the student's written consent. FERPA regulations do not require the College to record disclosures to College officials, judicial orders or lawfully issued subpoenas, disclosures of directory information, and disclosures to the student.

Blocking Release of Directory Information

In accordance with the provisions of the Act, directory information may be disclosed without the student's prior consent unless the release is blocked by the student.

1. Student submits a *Non-Disclosure of Information* form with the Office of Records and Registration (ORR). Forms must be submitted to the ORR within two weeks after the first day of class for the semester.
2. The ORR will record the non-disclosure notification in the student's computerized educational record.
3. The non-disclosure notification does not expire and will be honored until revoked by the student in writing.

Military Recruiter Access to Information

In accordance with the provisions of FERPA and the Solomon Amendment, military recruiters have access to campus and to lists of students, including personally identifiable student information.

1. Recruiter submits a written request with the Office of Records and Registration (ORR).
2. ORR responds with authorized student information as requested and in accordance with the law.