

# FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT

## CCC Procedures and Definitions (7/2009)

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The FAMILY EDUCATIONAL RIGHTS & PRIVACY ACT (FERPA) applies to all educational institutions to which funds are made available under any federal program for which the United States Department of Education has administrative responsibilities as specified by law or authority pursuant to law.

This act does not apply to an educational institution solely because students attending that institution received benefits from a federal program referenced in the above paragraph if no funds under those programs are made available to the institution itself.

### A. Definitions

1. Act -- The family educational rights and privacy act.
2. Directory Information -- A student's name, address, student email, telephone number, major, date of attendance at CCC, date and place of birth, degrees and awards received at CCC, institutions attended prior to admission to CCC, participation in recognized activities and sports, weight and height of members of athletic teams, photographs, and enrollment status.
3. Education Institution or Agency or Institution -- Any public or private agency or institution which is the recipient of funds under any federal program referenced in the "Family Educational Rights and Privacy Act."
4. Education Records -- Those records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational institution or agency or by a person acting for such agency or institution. Education records do not include the following:
  - a. Education records of instructional, supervisory, and administrative personnel and educational personnel which are in the sole possession of the maker 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 the "Release of Records" section herein, the records and documents of such law enforcement unit which (1) are kept apart from the records described above, (2) are maintained solely for law enforcement purposes, and (3) 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 an educational agency or institution but who are not in attendance at such agency or institution, 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 who is 18 years of age or older or is attending an institution of postsecondary education which are created or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity or

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assisting in that 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.

5. Institution of Postsecondary Education -- An institution which provides education to students beyond the secondary levels. Secondary school level means the education level not beyond grade 12 at which secondary education is provided as determined under state law.
  6. Parent -- A natural parent, an adoptive parent, or the legal guardian of a student.
  7. Personally Identifiable -- The data or information contains the name of the student, the student's parent or other family member, the address of the student, a personal identifier such as the student's social security number or student number, and a list of personal characteristics which would make it possible to identify the student with reasonable certainty or other information which would make it possible to identify the student with reasonable certainty. (Also see "Release of Student Information.")
  8. Record -- The information or data recorded in any printed medium including but not limited to handwriting, print, tapes, film, microfilm, and microfiche.
  9. Student -- Any person who is attending or has attended Central Community College and with respect to whom Central Community College maintained education records or personally identifiable information. Student does not include a person who has not been in attendance at such institution.
- B. Destruction of Records -- Central Community College is not precluded by this act from destroying any records if not otherwise precluded by law except that access shall be granted under conditions as stated prior to the destruction of the education records when the student has requested such access.
- C. Directory Information -- Before making public the directory information, Central Community College shall give public notice of the categories of information which it has designated as such information with respect to each student attending Central Community College and shall allow a reasonable period of time after such notice has been given for the student to inform Central Community College that any or all of the information designated should not be released without the student's prior consent.
- D. Enforcement -- Assurances are required with every application, proposal, and plan submitted to the commissioner by Central Community College for a grant, contract, loan, or any other type of funding under the programs referenced in the "Family Educational Rights and Privacy Act" shall as a condition to its approval and the extension of any federal funding pursuant to the

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application:

1. Contain or be accompanied by an assurance that Central Community College is in compliance and will continue to comply with the provisions of this act and the regulations, or
2. Make specific references to such an assurance previously filed with the secretary by Central Community College.

Assurances are required respecting sub-grants and subcontracts with Central Community College when receiving funds under a federal program referenced in this act above shall as a condition to making any of such funds available to another educational institution whether by sub-grant, contract, subcontract, or otherwise required such second institution to submit to it an assurance that the other institution is in compliance and will continue to comply with the provisions of this act. Assurances in conflict with state or local law:

1. In the event that Central Community College cannot provide the assurances required in the above paragraphs because a state or local law conflicts with the provisions of this act or the regulations, the institution shall so state in each of its applications, proposals, and plans submitted to obtain federal funds which are subject to this act, given the text and legal citation of the conflicting law.
  2. The secretary may waive the requirements in the above paragraphs for a limited period of time under the circumstances set forth in this section.
  3. The waiver will be granted only for such period as may be reasonably necessary for the pertinent state or local legislative bodies to have an opportunity to alter the conflicting state or local law to bring it into conformity with this act.
  4. During the period of a waiver under the above paragraphs, Central Community College will not be penalized with regard to availability of federal funds.
- E. Limitation of Access -- Central Community College is not required to make available to its students the following:
1. Financial records of the student's parents.
  2. Confidential letters and statements of recommendation which were placed in the education records prior to January 1, 1975, if such letters and statements were not used for purposes other than those which they were specified.
  3. If the student has signed a waiver of student's right of access in accordance with requirements set forth below:
    - a. Confidential recommendations with respect to admission to any educational institution or agency.
    - b. Confidential recommendations with respect to an application for employment.
    - c. Confidential recommendations with respect to the receipt of an honor or honorary recognition.
- F. Notification to Students of Their Rights -- Central Community College shall inform students of rights accorded them by this act by giving the students at least annual notice of the following:

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1. The types of education records and information contained therein which are directly related to the student and maintained by Central Community College.
  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.
  3. The policies of Central Community College for reviewing and expunging those records.
  4. The procedures established by Central Community College respecting the scope of the student's right of access as set out in the "Access Rights" statements of the "Waiver of Access" section.
  5. The procedures for challenging the content of the student's education records as set out in the "Type of Hearing" section.
  6. The categories of information which Central Community College has designated as directory information under the "Release of Records" section.
  7. The other rights and requirements set forth in this act.
  8. The notice provided to the student shall be in the language of the student.
- G. Procedure and Time Limit for Granting Access -- Central Community College shall establish appropriate procedures for the granting of a request by a student for access to educational records within a reasonable period of time but in no case shall access be withheld more than 45 days after the request has been made.
- H. Record of Access -- Central Community College shall maintain a record, kept with the educational records of each student, which will indicate all parties, other than those specified in the "Release of Records" section, who have requested or obtained access to a student's educational record maintained by the college and which will indicate specifically the legitimate interest that each such party had in obtaining this information.
- I. Such record of access shall be available only to the students whose file in which the record is kept, Central Community College officials and their assistants who are responsible for such records, and to persons or organizations authorized in and under the conditions of the "Release of Records" section as a means of auditing the operation of the system.
- J. Release Content -- Where the consent of the student is required for the release of education records, the release shall be in writing, be signed and dated by the person giving such consent, and shall include the following:
1. A specification of the records to be released.
  2. The reason for such release.
  3. The name of the parties to whom such records will be released. A copy of the records to be released shall be provided on request to the student.
- K. Release to Federal and State Officials -- Nothing shall preclude authorized representatives of the officials listed in this section from having access to student or other records which may be

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necessary in connection with the audit and evaluation of federally supported education programs or in connection with the enforcement of federal legal requirements which relate to such programs. The term "authorized representative" may include contractors when used in this section.

Except where the consent of a student has been obtained pursuant to this section or when collection of personally identifiable information is specifically authorized by federal law, any data collected by officials listed in this section shall be protected in a manner which will not permit the personal identification of the students and their parents by other than those officials. Such personally identifiable data shall be destroyed when no longer needed for such audit, evaluation, and enforcement of federal legal requirements.

- L. Release of Records -- Release of education records or personally identifiable information contained therein other than directory information of students shall not be permitted by Central Community College without the written consent of the student to any party other than the following:
1. Other school officials, including teachers within Central Community College, who have been determined by Central Community College to have legitimate educational interests.
  2. Officials of other school systems where the student seeks to enroll upon the condition that the student be notified of the transfer, receive a copy of the record transferred if desired, and have an opportunity to challenge the content of the record.
  3. Authorized representatives of the comptroller of the United States, secretary, the commissioner, the director of the National Institute of Education, the assistant secretary of education, or state educational authorities.
  4. In connection with a student's application for or receipt of financial aid.
  5. State and local officials or authorities to which such information is specifically required to be reported or disclosed pursuant to state statutes adopted before November 19, 1974.
  6. Organizations conducting studies for or on behalf of educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administer student aid programs and improving instruction, if such studies are conducted in such a manner as will not permit the personal identification of students and their parents by persons other than representatives of such organizations, and such information will be destroyed when no longer needed for the purpose for which it is conducted.
  7. Accrediting organizations in order to carry out their accrediting functions.
  8. Parents of a dependent student of such parents as defined in Section 152 of the Internal Revenue Code of 1954.
  9. In compliance with judicial order or pursuant to any lawfully issued subpoena, upon condition that the students are notified of all such orders or subpoenas in advance of the compliance therewith by Central Community College.
  10. Release of information for health or safety emergencies may take place from education records to appropriate persons in connection with an emergency and if the knowledge of such information is necessary to protect the health or safety of a student or other persons.

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The factors which should be taken into account in determining whether records may be released under this section include the following:

- a. The seriousness of the threat to the health or safety of the student or other parties.
  - b. The need for such records to meet the emergency.
  - c. Whether the person to whom such records are released are in a position to deal with the emergency.
  - d. The extent to which time is of the essence in dealing with the emergency.
- M. Reports and Records -- Central Community College shall make such reports in such form and containing such information as the office or the review board may require to carry out its function under this act and keep such records and afford such access thereto as the office or the review board may find necessary to assure the correctness of such reports and compliance with the provisions of this act and accompanying regulations.
- N. Right to a Hearing -- Central Community College shall provide students an opportunity for a hearing to challenge the contents of the student's education records in order to ensure the records are not misleading, inaccurate, or otherwise in violation of their rights of privacy or other rights; to provide an opportunity for the correction or deletion of any inaccurate, misleading, or otherwise inappropriate data contained therein; and to insert into such records a written explanation by the student in respect to the content of such record.
- O. Student's Right of Access -- Central Community College shall provide students who are, who have been attending, or who have been in attendance at Central Community College access to their educational records as described in "Limitation of Access."
- P. Transfer of Information by Third Parties -- Central Community College shall not release personal information on a student except on the condition that the party to whom the information is being transferred will not permit any other party to have access to such information without the written consent of the student.

Central Community College shall include with any information released to a party under this section a written statement which informs such party of the requirements set forth in the "Record of Access" section.

- Q. Type of Hearing -- Central Community College may attempt to settle a dispute with the student regarding the content of their education records through informal meetings and discussions with the student. Upon the request of Central Community College or the student, the hearing required, as described in the "Right to a Hearing" section, shall be conducted under procedures adopted and published by Central Community College, as required in the "Notification to Students of Their Rights" section. Such procedures shall include at least the following:

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1. The hearing shall be conducted and decided within a reasonable period of time following the request for the hearing.
  2. The hearing shall be conducted and the decision rendered by a Central Community College official or other party who does not have direct interest in the outcome of the hearing.
  3. The student shall be offered a full and fair opportunity to present evidence relevant to the issues raised in the "Right to a Hearing" section.
  4. A decision shall be rendered in writing within a reasonable period of time after the conclusion of the hearing.
- R. Waiver of Access -- A student at Central Community College may, when applying for admission, waive his right of access to confidential statements described in the "Limitation of Access" provisions provided:
1. Upon request a student is notified of the names of all persons making confidential recommendations.
  2. The confidential recommendations are not used solely for the purpose for which they were specifically intended.
  3. This waiver may not be required as a condition for admission to, receipt of financial aid from, or receipt of any other services or benefits from Central Community College.

Access Rights -- The student's right of access shall include:

1. The right to be provided a list of the types of education records which are maintained by Central Community College and are directly related to the student.
2. The right to inspect and review the contents of those records.
3. The right to obtain copies of those records, which may be at the cost of the student but not to exceed the actual cost of copying the records.
4. The right to a response from Central Community College to reasonable requests for explanations and interpretations of those records.
5. The right to an opportunity for a hearing to challenge the contents of those records as provided in "Right to a Hearing."
6. If any material or documents in the education records include information on more than one student, the right to inspect and review only such part of the education record as relates to such student.