

## **Education Records Management\*\***

### **1. Student Education Record**

Student education records are those records that are directly related to a student and maintained by the College or by a party acting for the College; however, this does not include the following:

- a. Records of instructional, supervisory and administrative personnel and educational personnel ancillary to those persons that are kept in the sole possession of the maker of the record, and are not accessible or revealed to any other person except a temporary substitute for the maker of the record;
- b. Records of the law enforcement unit of the College;
- c. Records relating to an individual who is employed by the College that are made and maintained in the normal course of business, that relate exclusively to the individual in that individual's capacity as an employee and that are not available for use for any other purpose. Records relating to an individual in attendance at the College who is employed as a result of his/her status as a student are education records and are not excepted under this section;
- d. Faculty records, relating to personal matters of faculty members such as conduct, personal and academic evaluations and disciplinary actions;
- e. Records on a student who is attending the College that are:
  - (1) Made or maintained by a physician, psychiatrist, psychologist or other recognized professional or paraprofessional acting in his/her professional capacity or assisting in a paraprofessional capacity;
  - (2) Made, maintained or used only in connection with treatment of the student; and
  - (3) Disclosed only to individuals providing the treatment. For purposes of this definition, "treatment" does not include remedial educational activities or activities that are part of the program of instruction at the College.
- f. Records that only contain information relating to activities in which an individual engaged after he/she is no longer a student at the College;
- g. Medical or nursing records which are made or maintained separately and solely by a licensed health care professional and which are not used for education purposes or planning.

The College shall keep and maintain a permanent record on each student which may, but need not include, the:

- a. Name of the College;
- b. Full name of the student;
- c. Student birth date;
- d. Date of entry into the College;

- e. Name of school or college previously attended;
- f. Subjects taken;
- g. Assessment of student work in those subjects;
- h. Credits earned;
- i. Date of withdrawal from College;
- j. Social security number, under the conditions provided below; and
- k. Such additional information as the College may prescribe.

The College shall retain permanent records in a manner secure from accidental destruction or intentional tampering.

The College shall also request the social security number of the student for the purposes of record keeping and research and will include the social security number on the permanent record only if the student agrees with the request under the conditions described below. The request shall include notification to the student that the provision of the social security number is voluntary; that request for release is made under the authority of ORS 341.290(17) and that specific uses will be made of the social security number. Those specific uses will be described in the notification that will be provided to students on the College's intake form at the time of registration. The following conditions will guide the release of student social security numbers:

- a. The request to a student to release his/her social security number shall conform to forms and/or procedures developed and published by the State Board of Education. Any alteration by the College in the wording or procedure must be approved by the Commissioner for Community College Services or designee under the authority of the State Board of Education. The State Board of Education may revise the wording only with a minimum of 90 days' notice to the colleges and only with the input of the colleges;
- b. If the College determines that it needs to use the social security number for a purpose other than those described on the disclosure form, the College may add that use to its disclosure form. The additional wording must be approved by the Commissioner or designee before it is added to the disclosure statement;
- c. Under no circumstances will the College require a student to release his/her social security number unless release is specifically mandated by federal law (as in federal financial aid law and payroll requirements);
- d. The College will not deny any student any right, benefit or privilege provided by law because of the student's refusal to disclose his/her social security account number. This provision does not apply with respect to any disclosure which is mandated by federal law;
- e. If a student refuses to release his/her social security number, the College may assign an alternative student identification number. Such a number is personally identifiable information as defined in OAR 581-004-0100(6) and is governed by disclosure requirements set forth in OAR 589-004-0450;
- f. If credit in the form of student loans or deferred tuition payments is extended to a student, the College may request that the student voluntarily provide his/her social security number through a disclosure form separate from the form described in (a.) above. Any such form shall be approved by the Commissioner or designee prior to implementation.

## **2. Rights of Students**

The College shall annually notify parents and eligible students through the College's student handbook or any other means that are reasonably likely to inform students of their rights as specified in OAR's 589-004-0150 through 589-004-0750. This notification shall state that the student has a right to:

- a. Inspect and review the student's education records;
- b. Request the amendment of the student's education records to ensure that they are not inaccurate, misleading or otherwise in violation of the student's privacy or other rights;
- c. Consent to disclosures of personally identifiable information contained in the student's education records, except to the extent that the applicable state or federal law authorizes disclosure without consent;
- d. Pursuant to OAR 589-004-0650, file with the Family Policy Compliance Office, United States Department of Education a complaint under 34 C.F.R. §99.64 concerning alleged failures by the College to comply with the requirements of federal law; and
- e. Obtain a copy of the College policy and with regard to student education records.

The notification shall also inform students that the College will forward education records without prior notice to another school or institution of postsecondary education where the student intends to enroll. The notification shall also indicate where copies of the College policy are located and how copies may be obtained.

If the student has a primary or home language other than English, the College shall provide effective notice.

## **3. Student's Right to Inspect and Review**

The College shall permit a student to inspect and review the education records of the student, unless the education records of a student contain information on more than one student. In that case the student may inspect, review or be informed of only the specific information about the student.

The student shall comply with the following procedure to inspect and review a student's education record:

- a. Provide a written, dated request to inspect a student's education record;
- b. State the specific reason for requesting the inspection.

The written request will be permanently added to the student's education record.

The College shall comply with a request for access to a student's education record within a reasonable period of time, but in no case more than 45 days after it has received the request.

The College shall respond to reasonable requests for explanations and interpretations of the student's education record.

The College shall not destroy any education record if there is an outstanding request to inspect and review the education record.

While the College is not required to give an eligible student or student's parent(s) access to treatment records under the definition of "education records" in OAR 589-004-0100(3)(b)(E), the student may, at his/her expense, have those records reviewed by a physician or other appropriate professional of his/her choice.

If a student so requests, the College shall give the eligible student a copy of the student's education record. The College may recover a fee for providing a copy of the record, but only for the actual costs of reproducing the record. The College shall not provide the student with a copy of test protocols, test questions and answers and other documents described in Oregon Revised Statutes (ORS) 192.501(4).

The College does not have to permit a student to inspect and review the following records:

- a. Financial records of the student's parents;
- b. Confidential letters and statements of recommendation if the student has waived his/her right to inspect the letters and statements under the procedure in 34 C.F.R. § 99.12(B)(2).

The College may deny a request for a copy or copies of the education record when the College believes that a legitimate cause exists for such a denial, including but not limited to, a request to copy the education record that would require the education record to be copied off College property or copied by an individual other than College personnel.

Fees for copies of education records may be charged unless the fee prevents a student from accessing the records. Any such fees will be established by the President to reasonably reimburse the College for actual costs of making copies of the education records.

The College will maintain a list of the types and locations of education records maintained by the College and the titles and addresses of officials responsible for the records.

#### **4. Release of Personally Identifiable Information**

Personally identifiable information shall not be released without prior written consent of the student. The consent must specify the records that may be disclosed, state the purpose of the disclosure and identify the party or class of parties to whom the disclosure may be made. A copy of the records disclosed will be provided to the student upon request. A record of the consent will be maintained for as long as the individual's records are maintained. The College will use reasonable methods to identify and authenticate the identity of the parents, students, school officials and any other parties to whom the College discloses personally identifiable information from educational records.

Exceptions may be permitted in the following cases:

- a. The disclosure is to other College officials, including teachers, athletic directors, coaches and counselors within the College who have a legitimate educational interest in the records.

As used in this section, “legitimate educational interest” means a College official employed by the College as an administrator, supervisor, instructor or staff support member; a person serving on a school Board who need to review an educational record in order to fulfill his or her professional responsibilities, as delineated by their job description, contract or conditions of employment. Contractors, consultants, volunteers or other parties, to whom an agency or institution has outsourced institutional services or functions to the College, may be considered a College official, provided the individual is under the direct control of the College with respect to the use and maintenance of educational records, and is subject to College policies concerning the redisclosure of personally identifiable information.

- b. The disclosure is to officials of another school, school system or an institution of postsecondary education where the student seeks or intends to enroll;
- c. The disclosure is for the purposes of an audit or evaluation of federal or state-supported education programs or for the enforcement of or compliance with federal or state legal requirements which relate to those programs and is to authorized representatives of:
  - (1) The Controller General of the United States;
  - (2) The Secretary of the United States Department of Education; or,
  - (3) State and local educational authorities.

Information that is collected for these purposes must be protected in a manner that does not permit personal identification of individuals by anyone except the officials referred to above and be destroyed when no longer needed.

- d. The disclosure is in connection with financial aid for which the student has applied or which the student has received, if the information is necessary for such purposes as to:
  - (1) Determine eligibility for the aid;
  - (2) Determine the amount of the aid;
  - (3) Determine the conditions for the aid; or
  - (4) Enforce the terms and condition of the aid.

If the student refuses to consent to disclosure of personally identifiable information and/or his/her social security number, but releases the social security number as a condition of receiving financial aid, the College shall mask the social security number to ensure it is used only for the purposes allowed under federal financial aid law.

Any party who receives student records containing personally identifiable information from the College may disclose that information to a third party only if the student has been notified of the re-disclosure and its purpose in the original disclosure notice and has consented to the re-disclosure. Exceptions may be permitted for such re-disclosures without prior student consent as provided in OAR 589-004-0500.

As used in this section “financial aid” means any payment of funds provided to an individual (or a payment in kind of tangible or intangible property to the individual) that is conditioned on the individual’s attendance at an educational agency or institution.

- e. The disclosure is to organizations conducting studies for, or on behalf of, the College to:
  - (1) Develop, validate or administer predictive tests;
  - (2) Administer student aid programs; or
  - (3) Improve instruction.

The College may disclose information under this section only if the study is conducted in a manner that does not permit personal identification of parents and students by individuals other than representatives of the organization; and the information is destroyed when no longer needed for the purposes for which the study was conducted.

For purposes of this section, the term “organization” includes, but is not limited to, federal, state and local agencies, and independent organizations.

- f. The disclosure is to accrediting organizations to carry out their accrediting functions;
- g. The disclosure is to comply with a judicial order or lawfully issued subpoena. The College may disclose information under this section only if the College makes a reasonable effort to notify the student of the order or subpoena in advance of compliance;
- h. The disclosure is to the parents of a dependent student, as defined in Section 152 of the Internal Revenue Code;
- i. The disclosure is to law enforcement, child protective services and health care professionals, and other appropriate parties in connection with a health and safety emergency if knowledge of the information is necessary to protect the health and safety of the student or other individuals. If the College determines that there is an articulable and significant threat, the College will document the information available at that time of determination and the rationale basis for the determination for the disclosure of the information from the educational records.

In making a determination whether a disclosure may be made under the health or safety emergency, the College may take into account the totality of the circumstances pertaining to a threat to the health or safety of a student or other individuals.

- j. The disclosure is information the College has designated as “directory information.”

## **5. Record Keeping Requirements**

The College shall maintain a record of each request for access to and each disclosure of personally identifiable information from the education records of each student. Exceptions to the record keeping requirements shall include the student who is the subject of the record, College official with a legitimate educational reason under OAR 589-004-0500(1), a party with written consent from the student or a party seeking directory information. The College shall maintain the record with the education records of the student as long as the records are maintained. For each request or disclosure the record must include:

- a. The party or parties who have requested or received personally identifiable information from the education records; and
- b. The legitimate interests the parties had in requesting or obtaining the information;
- c. The names of the additional parties to which the receiving party may disclose the information on behalf of the College;

- d. The legitimate interests which each of the additional parties has in requesting or obtaining the information.

Colleges that maintain electronic records may flag those records to refer to disclosure information which applies to all students.

For the purpose of the ongoing submission of records to the Oregon Community College Unified Reporting System (OCCURS), a single record or electronic flag referring to OCCURS policy on data elements collected and transmitted shall constitute appropriate record keeping.

## **6. Request for Amendment of Student's Education Record**

If a student believes the education records relating to the student contain information that is inaccurate, misleading or in violation of the student's rights of privacy or other rights, he/she may ask the College to amend the record.

The College shall decide whether to amend the record as requested within a reasonable time after the request to amend has been received by the College.

The request to amend the student's education record shall become a permanent part of the student's education record.

If the College decides not to amend the record as requested, the student shall be informed of the decision and of his/her right to appeal the decision by requesting a hearing under OAR 589-004-0350.

## **7. Hearing Rights of Students**

The College shall give a student, on request, an opportunity for a hearing to challenge the content of the student's education records on the grounds that the information contained in the education records is inaccurate, misleading or in violation of the privacy or other rights of the student.

If, as a result of the hearing, the College decides that the information is inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall amend the record accordingly and inform the student of the amendment in writing.

If, as a result of the hearing, the College decides that the information in the education record is not inaccurate, misleading or otherwise in violation of the privacy or other rights of the student, it shall inform the student of the right to place a statement in the hearing record commenting on the contested information in the record or stating why he/she disagrees with the decision of the College, or both.

If the College places a statement in the records of the hearing, the College shall maintain the statement with the contested part of the records for as long as the record is maintained and disclose the statement when it discloses the portion of the record to which the statement relates.

Electronic student records shall be flagged to indicate a contested case hearing record exists.

The hearing must meet, at a minimum, the following requirements:

- a. The College shall hold the hearing within a reasonable time after it has received the request for the hearing from the student;
- b. The College shall give the student notice of the date, time and place reasonably in advance of the hearing;
- c. The hearing may be conducted by any individual, including an official of the college, who does not have a direct interest in the outcome of the hearing;
- d. The College shall give the student a full and fair opportunity to present evidence relevant to the issues raised. The student may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney;
- e. The College shall make its decision in writing within a reasonable period of time after the hearing;
- f. The decision must be based solely on the evidence presented at the hearing, and must include a summary of the evidence and the reasons for the decision.

**Disclosure Statement**  
**Required for use in collecting social security numbers**  
**See OAR 589-004-0450(2)**  
**Department of Community Colleges and Workforce Development**  
**Revised, January 2001**

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**On the intake form which initially request the social security number for each student, the following statement shall appear just above the space for the number:**

“Providing your social security number is voluntary. If you provide it, the college will use your social security number for keeping records, doing research, aggregate reporting, extending credit and collecting debts. Your social security number will not be given to the general public. If you choose not to provide your social security number, you will not be denied any rights as a student. Please read the statement (use one: “on the back of this form,” or “attached to this form,” or “on page xx of your class schedule”), which describes how your number will be used. Providing your social security number means that you consent to use of the number in the manner described.”

**On the back of the same form, or attached to it, or in the schedule of classes, the following statement shall appear:**

OAR 589-004-0450(2) authorizes \_\_\_\_\_ Community College to ask you to provide your social security number. The number will be used by the college for reporting, research, and record keeping. Your number will also be provided by the college to the Oregon Community College Unified Reporting System (OCCURS), which is a group made up of all community colleges in Oregon, the State Department of Community Colleges and Workforce Development and the Oregon Community College Association. OCCURS gathers information about students and programs to meet state and federal reporting requirements. It also helps colleges plan, research, and develop programs. This information helps the colleges to support the progress of students and their success in the workplace and other education programs.

OCCURS or the college may provide your social security number to the following agencies or match it with records from the following systems:

1. State and private universities, colleges, and vocational schools, to find out how many community college students go on with their education and to find out whether community college courses are a good basis for further education;
2. The Oregon Employment Department, which gathers information, including employment and earnings, to help state and local agencies plan education and training services to help Oregon citizens get the best jobs available;
3. The Oregon Department of Education, to provide reports to local, state and federal governments. The information is used to learn about education, training, and job market trends for planning, research, and program improvement;
4. The Oregon Department of Revenue and collection agencies only for purposes of processing debts and only if credit is extended to you by the college;
5. {WHERE APPLICABLE (i.e., at colleges which use the ASSET Placement test);
6. The American College Testing Service, if you take the Asset Placement test, for educational research purposes.}

State and federal law protects the privacy of your records. Your number will be used only for the purposes listed above.