

### **3402 FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA)**

The Family Educational Rights and Privacy Act (FERPA) is a Federal law that protects the privacy of student education records. Mountainville Academy will comply with FERPA as fully outlined in 20 U.S.C. 1232g; 34 CFR Part 99). Under FERPA, schools must generally afford parents:

- The right to inspect and review their student's education records within 45 days after the day the school receives a request for access (although they are not necessarily required to provide copies of records).
- The right to seek to have their student's records amended if the parent believes the records are inaccurate, misleading, or otherwise in violation of the student's privacy rights under FERPA.
- The right to written parental consent prior to the release of personally identifiable information from the student education record. However, schools may disclose those records, without consent, to the following parties or under the following conditions:
  - School officials who have legitimate educational interests
    - A school official typically includes a person employed by the school or school district as an administrator, supervisor, instructor, or support staff member (including health or medical staff and law enforcement unit personnel) or a person serving on the school board. A school official also may include a volunteer, contractor, or consultant who, while not employed by the school, performs an institutional service or function for which the school would otherwise use its own employees and who is under the direct control of the school with respect to the use and maintenance of PII from education records, such as an attorney, auditor, medical consultant, or therapist; a parent or student volunteering to serve on an official committee, such as a disciplinary or grievance committee; or a parent, student, or other volunteer assisting another school official in performing his or her tasks. A school official typically has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibility.
  - Schools to which the student is transferring
  - Appropriate officials who are conducting audits or evaluations
  - Specified parties in conjunction with financial aid to the student
  - Organizations conducting specified studies for or on behalf of the school
  - Accrediting organizations
  - Compliance with a judicial order or lawfully issued subpoena
  - Appropriate officials as related to health and safety emergencies
  - State and local authorities, within a juvenile system, pursuant to specific State law
  - State, local, or Federal education authorities

Additionally, schools may disclose, without consent, "directory" information, such as a student's name, address, telephone number, date and place of birth, honors and awards, and

dates of attendance, unless a parent/guardian has advised the school to the contrary in accordance with school procedures. Parents/guardians are given notice of their rights under FERPA each year annually and allowed the opportunity to request that the school not disclose directory information about them. Examples of directory information include, but are not limited to playbills, yearbooks, honor roll or other recognition lists, graduation programs, team lists, etc. Directory information, which is information that is generally not considered harmful or an invasion of privacy if released, can also be disclosed to outside organizations without a parent's prior written consent. Examples of outside organizations include, but are not limited to, yearbook publishers, manufacturers of class rings, etc. In addition, two federal laws require LEAs receiving assistance under the Elementary and Secondary Education Act of 1965 to provide military recruiters, upon request, with names, addresses, and telephone listings of students, unless parents have advised the LEA that they do not want their student's information disclosed without their prior written consent.

The school may develop policies that allow the disclosure of directory information only to specific parties, or for specific purposes, or for both.

Parents/guardians of students who are enrolled in Mountainville Academy who do not wish to have directory information disclosed from their student's educational record without prior written consent must notify the school in writing by August 25 of each school year. Mountainville Academy has designated the following information as directory information: Student name, address, telephone listing, e-mail address, photograph, date and place of birth, date of school attendance, grade level, participation in recognized school activities or sports, honors or rewards received, the most recent educational agency or institution attended, and school or student ID number (if it cannot be used to gain access to education records except when used in conjunction with one or more factors that authenticate the user's identity, such as a PIN, password, or other factor known or possessed only by the authorized user).

Parents may not use their right to opt out of directory information disclosures to prevent the school from requiring students to wear or otherwise disclose student ID cards or badges that display information that may be designated as directory information.

#### Access to Education Records

Schools are required by FERPA to:

- Provide a parent with an opportunity to inspect and review his or her child's education records within 45 days of the receipt of a request
- Provide a parent with copies of education records or otherwise make the records available to the parent if the parent, for instance, lives outside of commuting distance of the school
- Redact the names and other personally identifiable information about other students that may be included in the child's education records.

Schools are not required by FERPA to:

- Create or maintain education records;

- Provide parents with calendars, notices, or other information which does not generally contain information directly related to the student;
- Respond to questions about the student.
- Amendment of Education Records

Under FERPA, a school must:

- Consider a request from a parent to amend inaccurate or misleading information in the child's education records;
- Offer the parent a hearing on the matter if the school decides not to amend the records in accordance with the request;
- Offer the parent a right to place a statement to be kept and disclosed with the record if as a result of the hearing the school still decides not to amend the record.
- A school is not required to consider requests for amendment under FERPA that:
- Seek to change a grade or disciplinary decision;
- Seek to change the opinions or reflections of a school official or other person reflected in an education record;
- Seek to change a determination with respect to a child's status under special education programs.

#### Disclosure of Education Records

A school must:

- Have a parent's consent prior to the disclosure of education records;
- Ensure that the consent is signed and dated and states the purpose of the disclosure.

A school MAY disclose education records without consent when:

- The disclosure is to school officials who have been determined to have legitimate educational interests as set forth in the school district's annual notification of rights to parents;
- The student is seeking or intending to enroll in another school;
- The disclosure is to state or local educational authorities auditing or evaluating Federal or State supported education programs or enforcing Federal laws which relate to those programs;
- The disclosure is pursuant to a lawfully issued court order or subpoena; and
- The information disclosed has been appropriately designated as directory information by the school.

#### Annual Notification

A school must annually notify parents of students in attendance that they must allow parents to:

- Inspect and review their children's education records;
- Seek amendment of inaccurate or misleading information in their children's education records;

- Consent to most disclosures of personally identifiable information from education records.

The annual notice must also include:

- Information for a parent to file a complaint of an alleged violation with the FPCO;
- A description of who is considered to be a school official and what is considered to be a legitimate educational interest so that information may be shared with that person;
- Information about who to contact to seek access or amendment of education records.
- Means of notification:
- Can include local or student newspaper; calendar; student programs guide; rules handbook, or other means reasonably likely to inform parents;
- Notification does not have to be made individually to parents.

For Further Information or Complaints of Alleged Violations Complaints of alleged violations may be addressed to:

Family Policy Compliance Office  
US Department of Education  
Maryland Avenue, SW Washington, DC 20202-5901

Complaints must:

- Be timely submitted, not later than 180 days from the date you learned of the circumstances of the alleged violation
- Contain specific allegations of fact giving reasonable cause to believe that a violation has occurred, including:
  - Relevant dates, such as the date of a request or a disclosure and the date the parent learned of the alleged violation;
  - Names and titles of those school officials and other third parties involved;
  - A specific description of the education record around which the alleged violation occurred;
  - A description of any contact with school officials regarding the matter, including dates and estimated times of telephone calls and/or copies of any correspondence exchanged between the parent and the school regarding the matter;
  - The name and address of the school, school district, and superintendent of the district;
  - Any additional evidence that would be helpful in the consideration of the complaint.

Rights under FERPA transfer from parent to student when he or she turns 18 years of age or enters a postsecondary educational institution at any age ("eligible student").

In the event of a security breach in which the student's personally identifiable student data is released, the parent or guardian of a student shall be notified by email, mail, or a phone call.

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