

## **Family Educational Rights and Privacy Act (FERPA)**

Hilbert College complies with the Family Educational Rights and Privacy Act, also known as FERPA or the Buckley Amendment. Pursuant to this law, the college shall maintain the confidentiality of student education records and shall not release them to any person or entity without the written consent of the student except as set forth below. Moreover, the College shall provide students access to their education records pursuant to the procedures outlined in this policy.

### **Education Records**

Education records are all records that contain personally identifiable information directly related to a student and that are maintained by Hilbert College. Education records may be recorded and stored in any way, including: paper records, electronic records, handwriting, print, computer media, and digital images.

Education records do not include the following:

- Personal knowledge and personal observations.
- Sole possession records – records kept in the sole possession of the maker, which are used only as a personal memorandum and are not shared with or accessible by any other person.
- Law enforcement records – records created and maintained by Hilbert campus safety department for law enforcement purposes.
- Employment records – records pertaining only to a student’s employment with Hilbert College relating only to his or her capacity as an employee.
- Alumni records – records created or received after a student is no longer in attendance at the College and unrelated to the student’s attendance as a student.
- Peer grades – grades on peer-graded papers and assessments before they are collected and recorded by an instructor.
- Treatment records – records maintained by medical professionals and shared with other medical professionals for purposes of providing medical treatment to the student.

The College may include in a student's education records disciplinary action taken against the student for conduct that posed a significant risk to the safety or well-being of that student or other members of the College community. Nothing in this policy shall prevent the College from disclosing such information to college officials or other institutions who have a legitimate educational interest in the behavior of the student. Moreover, the College may disclose to an alleged victim of any crime of violence the results of a disciplinary proceeding conducted by the College against the alleged perpetrator of such crime. In compliance with federal and state law (Title IX, the Clery Act, etc...) the College will disclose the outcome of an investigation of sexual violence to both the complainant and the respondent, including information about specific disciplinary sanctions when sanctions directly relate to a student who has been harassed. Additionally, the College reserves the right to notify the parents/family of a student determined to have violated the College’s policies and/or New York State laws regarding underage drinking or illegal use of drugs.

## **Release of Information**

Education records may not be released without prior written consent from the student to which they pertain. Such written consent must be dated and signed by the student, and must specify the records to be released and to whom the records may be released.

Consent to disclose student records is not required under the following circumstances:

- Where the disclosure is of directory information, as that term is defined below.
- Where the disclosure is to school officials with legitimate educational interests, as those terms are defined below.
- Where the disclosure is to appropriate parties in a health or safety emergency. Appropriate parties may include: law enforcement officials, public health and safety officials, medical professional and personnel, or parents.
- Where the disclosure is to officials of another school in which the student seeks or intends to enroll or is enrolled.
- Where the disclosure is in connection with financial aid for which a dependent student has applied, received or is receiving.
- Where the disclosure is made to accrediting organizations.
- Where the disclosure is made to officials conducting studies for or on behalf of the College.
- Where the disclosure is to authorized government representatives responsible for supervising the College's State-supported education programs.
- Where the disclosure is made to comply with a judicial order or lawfully issued subpoena.
- Where the disclosure is made to a victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense, regarding the final results of a disciplinary proceeding concerning such offense.
- Where the disclosure is made to the general public, regarding the final results of a disciplinary proceeding, if the school 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 the school's rules or policies.
- Where the disclosure is made to parents of a student regarding the student's violation of any Federal, State, or local law, or of any rule or policy of the school, governing the use or possession of alcohol or a controlled substance if the school determines the student committed a disciplinary violation and the student is under the age of 21.

Should the College disclose personally identifiable information from a student's education records pursuant to one of the above FERPA exceptions, the College must first inform the recipient of the information that it cannot re-disclose the information without the student's consent, and that it may only use the information for the purpose for which the disclosure was made.

The Office of Student Records will maintain a written record of each request for access to, and each release of personally identifiable information from a student's education record, which includes the name of the requester and recipient of the information, the legitimate interests they

had in the information, and, in the case of a "health or safety emergency," a description of the perceived threat. A written record does not need to be maintained for disclosures made pursuant to the following FERPA exceptions:

- Disclosures to school officials with legitimate educational interests.
- Disclosures made with the student's written consent.
- Disclosures of directory information, so long as the student has not opted-out.
- Disclosures in connection with a grand jury or other law enforcement subpoena.

### **Directory Information**

At its discretion, Hilbert College may provide "directory information" to others and the College's confidentiality policy shall not be applicable to such information. "Directory information" includes:

- Student name
- Email address
- Major field of study
- Degrees or awards received
- Recent education institution attended by student
- Participation in recognized activities and sports
- Weight and height of members of athletic teams

The college will withhold directory information if a student makes a written request to the Office of Student Records. A form is available in the Office of Student Records and on the Office of Student Records website. Once a student has requested a non-disclosure, his or her directory information will not be disclosed until the student provides written instruction to change this status. Campus issued email addresses will be included in the list of directory information not to be released in the event that a student signs a non-disclosure form, however, will remain available to all campus constituents to address the direct educational needs of the student.

### **Legitimate Educational Interest**

The right to consent to disclosures of personally identifiable information lies with the student, except to the extent that FERPA authorizes disclosure without consent. One exception that permits disclosure of personally identifiable information contained in a student's education records without consent is disclosure to College officials with legitimate education interest. A school official is:

- A person employed by the College in an administrative, supervisory, academic or research, or support staff position (including security personnel and health staff)
- A person or company with whom the College has contracted (such as an attorney, auditor, or collection agent, temporary staffing agencies, and outsourced vendors). Outsourced vendors are those parties helping the College provide students access to services relating to their education
- A person serving on the Board of Trustees

- A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another College official in performing the official's tasks

Identifying a person as a "school official" does not automatically grant him or her unlimited access to education records. The existence of a legitimate educational interest may need to be determined on a case-by-case basis. Hilbert College constitutes a legitimate educational interest as the following:

- The information requested is necessary for that official to perform appropriate tasks that are specified in his or her position description or by a contract agreement.
- The information is to be used within the context of official agency or school business and not for purposes extraneous to the official's areas of responsibility or to the agency or school.
- The information is relevant to the accomplishment of some task or to a determination about the student.
- The information is to be used consistently with the purposes for which the data are maintained.

It is important to understand several points related to "legitimate educational interest:"

- Curiosity is not a legitimate educational interest. Just because you have access to student information systems and are able to view the record of your neighbor's son, does not mean that you have a legitimate educational interest in his grades and cumulative GPA.
- Simply the fact that you are a college employee does not constitute legitimate educational interest. Your need to know must be related to your job responsibilities in support of the college's educational mission. In other words, records should be used only in the context of official business in conjunction with the educational success of the student.
- Your legitimate educational interest is limited. While you may have a need to access education records for students in your department, you do not necessarily have a similar need to view records of students outside your department. In other words, access to information does not authorize unrestricted use.

### **Right to Inspect and Review**

Students have the right to inspect and review information contained in their educational records, to challenge the contents of their education records, to have a hearing if the outcome of the challenge is unsatisfactory, and to submit explanatory statements for inclusion in their record if they feel the decision following the hearing is unacceptable.

The College Registrar has the responsibility to coordinate the inspection and review procedures for student education records. Students wishing to review their education records must make a written request to the Registrar listing the records or information of interest. The pertinent record or information will be made available within forty-five days of the request. At their expense, students may have copies made of their records with certain exceptions (e.g., a copy of the academic record for which a financial "hold" exists). The following documents and information will not be disclosed to students: financial information submitted by their parents; confidential letters and recommendations associated with admissions, employment, or job placement;

references to which they have waived their rights of inspection and review, provided they are used solely for such purpose; education records containing information about more than one student, in which case the College will permit access only to that part of the record which pertains to the inquiring student.

### **Appeal of Educational Records**

A student who believes that the education records contain information that is inaccurate, misleading, or inappropriate should discuss the problem with the Registrar in an effort to resolve the matter informally. If not resolved, the student should write the College official responsible for the record, clearly identify the part of the record they want changed, and specify why it is inaccurate, misleading or inappropriate. If the college decides not to amend the record as requested by the student, the College will notify the student of the decision and advise the student of his or her right to a hearing regarding the request for amendment. Additional information regarding the hearing procedures will be provided to the student when notified of the right to a hearing.

The decision of the hearing will be final and will consist of a written report summarizing the evidence and stating the reasons for the decision. If the decision is in favor of the student, the student's record will be amended accordingly. If the student is not satisfied with the decision, the student may prepare a written statement explaining the disputed contents of the record. This statement will be maintained as part of the student's education records and released whenever the pertinent record is disclosed. Inquiries regarding this policy should be directed to the Registrar.

In addition, students have the right to file a complaint with the U.S. Department of Education concerning alleged failures by the College to comply with the requirements of FERPA. The name and address of the Office that administers FERPA is:

Family Policy Compliance Office,  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202.