

## WIDENER UNIVERSITY

### POLICY PERTAINING TO THE CONFIDENTIALITY OF, ACCESS TO, AND DISCLOSURE OF STUDENT RECORDS

#### Section One. Scope of Policy.

The Family Educational Rights and Privacy Act of 1974, also known as the Buckley Amendment (“FERPA” or “Act”), was enacted to assure parents of students, and students themselves if they are over the age of eighteen or attending an institution of post-secondary education, access to the students’ education records and to protect such individuals’ rights to privacy by limiting the transferability and disclosure of their records without their consent. In accordance with the Act and the regulations promulgated thereunder, the instant Policy has been adopted.

This Policy applies to students presently enrolled in any school, college or division of Widener University (“University”) and to alumni, but not to applicants who have not been admitted to or attended the University. The rights contained in this Policy are afforded to such students as well to the parents of “Dependent Students” as such term is defined herein.

**This Policy is intended to provide general guidance only, and any questions as to its applicability, operation or enforcement should be referred to the Senior Vice President for Administration and Finance of the University.**

#### Section Two. Definitions.

For purposes of this Policy, the following definitions shall apply:

(a) “Attendance” includes, but is not limited to –

(1) Attendance in person or by paper correspondence, videoconference, satellite, Internet, or other electronic information and telecommunications technologies for students who are not physically present in the classroom; and

(2) The period during which a person is working under a work-study program.

(b) “Biometric Record” as used in the definition of personally identifiable information means a record of one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual. Examples include fingerprints; retina and iris patterns; voiceprints; DNA sequence; facial characteristics; and handwriting.

(c) “Dependent Student” shall have the meaning as defined in Section 152 of the Internal Revenue Code of 1954, as same may be amended from time to time. For

purposes of this Policy, all undergraduate students will be considered as “dependent” unless the student specifically informs the Registrar’s Office that he/she considers himself/herself “independent.” All graduate students, University College students, and Weekend College students will be considered as “independent,” unless the student specifically informs the Registrar’s office that he/she is a “dependent.” Notwithstanding the foregoing, a student claimed as a dependent on a parent’s federal income tax return will in all cases be considered as a “dependent” student.

(d) “Directory Information” means information contained in an Education Record of a student that would not generally be considered harmful or an invasion of privacy if disclosed.

- (1) Directory Information includes, but is not limited to, the student’s name; home and campus address; telephone listing(s); electronic mail address; photograph; major field of study; grade level; enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance; participation in officially recognized activities and sports; weight and height of members of athletic teams; degrees, honors and awards received; and the most recent educational agency or institution attended.
- (2) Directory Information does not include a student’s –
  - (i) Social Security Number; or
  - (ii) Student Identification (ID) number, except as provided in paragraph (3) of this section.
- (3) Directory Information includes a student ID number, user ID, or other unique personal identifier used by the student for purposes of accessing or communicating in electronic systems, but only if the identifier 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 personal identification number (PIN), password, or other factor known or possessed only by the authorized user. The University (and its vendors) may not use a social security number or other non-directory information, either alone or in combination with other data elements, to identify student records when disclosing or confirming directory information without written consent of the student.

(e) “Disciplinary Action or Proceeding” means the investigation, adjudication, or imposition of sanctions by the University with respect to an infraction or violation of the internal rules of conduct applicable to students of the University.

(f) “Disclosure” means to permit access to or the release, transfer, or other communication of personally identifiable information contained in Education Records by

any means, including oral, written, or electronic means, to any party except the party identified as the party that provided or created the record.

(g) “Education Records” means those records, files, documents and other materials which contain information directly related to a student and which are maintained by the University or by a person acting for the University. The term “Education Records” does not include the following:

- (1) records of instructional, supervisory, and administrative personnel and educational personnel ancillary thereto which are in the sole possession of the maker thereof and which are not accessible or revealed to any other person except a substitute;
- (2) records maintained by a law enforcement unit of the University that were created by that law enforcement unit for the purpose of law enforcement;
- (3) in the case of persons who are employed by the University but who are not in attendance at the University, 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;
- (4) records on a student who is eighteen years of age or older, or is attending the University, which are made or maintained by a physician, psychiatrist, psychologist, or other recognized professional or paraprofessional acting in his professional or paraprofessional capacity, or assisting in that capacity, and which are made, 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, except that such records can be personally reviewed by a physician or other appropriate professional of the student’s choice;
- (5) records created or received by the University after an individual is no longer a student in attendance and that are not directly related to the individual’s attendance as a student; or
- (6) grades on peer-graded papers before they are collected and recorded by a teacher.

(h) “Parent” means a parent of a student and includes a natural parent, a guardian, or an individual acting as a parent in the absence of a parent or guardian.

(i) “Personally Identifiable Information” includes, but is not limited to –

- (1) the student’s name;

- (2) the name of the student's parent or other family members;
- (3) the address of the student or student's family;
- (4) a personal identifier, such as the student's social security number, student number, or biometric record;
- (5) other indirect identifiers, such as the student's date of birth, place of birth, and mother's maiden name;
- (6) other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty; or
- (7) information requested by a person who the University reasonably believes knows the identity of the student to whom the Education Record relates.

(j) "Record" means any information recorded in any way, including, but not limited to, handwriting, print, computer media, video or audio tape, film, microfilm and microfiche.

### **Section Three. Permitted Disclosures.**

(a) Except for certain exceptions stated in the Act, no one shall have access to Education Records without the written consent of the student concerned. However, the student concerned may authorize in writing the disclosure of Education Records to specified individuals or to a class of organizations or persons for the purpose of employment, graduate study, or fellowships or for other purposes specified by the student. A valid written consent under the Act must be in writing, signed by the student and dated and shall specify the Education Records to be released, the reasons for such release and the party or the class of parties to whom the disclosure may be made. The student may also request a copy of the Education Records to be released. The exceptions to the consent requirement include the following:

- (1) University officials with legitimate educational interests. A University official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including, without limitation, law enforcement unit personnel, health staff, athletic coaches and trainers and admissions counselors and recruiters); a person or company with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, contractor, consultant, volunteer 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 University official in

performing his or her tasks. A University official has a legitimate educational interest if the official needs to review an Education Record in order to fulfill his or her professional responsibilities for the University;

- (2) under certain specific conditions, officials of other schools, school systems, or institutions of higher education where the student seeks or intends to enroll, or where the student is already enrolled, so long as the disclosure is for purposes related to the student's enrollment or transfer;
- (3) under certain specific conditions, authorized representatives of the Controller General of the United States, the Attorney General of the United States, the United States Secretary of Education or state educational authorities 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;
- (4) under certain specific conditions, authorized representatives of the United States Attorney General for law enforcement purposes;
- (5) persons processing financial aid for which the student has applied or which the student has received, if the information is necessary to determine eligibility for or the amount of the aid, the conditions for the aid or to enforce the terms and conditions of the aid;
- (6) under certain specific circumstances, state and local officials or authorities to whom such information is specifically allowed to be reported or disclosed pursuant to state statute if the allowed reporting or disclosure concerns the juvenile justice system and the system's ability to effectively serve the students whose records are to be released;
- (7) organizations conducting studies for, or on behalf of, educational agencies or institutions for the purpose of developing, validating, or administering predictive tests, administering student aid programs, or improving instruction, subject to certain conditions;
- (8) accrediting organizations in order to carry out their accrediting functions;
- (9) parents of a Dependent Student, as defined in this Policy;
- (10) if the University determines that there is an articulable and significant threat to the health or safety of a student or other individuals, but only to those persons whose knowledge of the information is necessary to protect the health or safety of the

student or other individuals. In these circumstances, a record must be kept of the threat and the parties to whom the information was disclosed;

- (11) under certain specific circumstances, to an entity or persons designated in a judicial order or lawfully issued subpoena, or pursuant to certain ex parte court orders obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecutions of certain offenses or an act of domestic or international terrorism;
- (12) the disclosure is information the University has designated as “Directory Information”; provided, however, that any student may withhold disclosure of any or all of such Directory Information by notification in writing to the Registrar’s Office of the University or the School of Law, as applicable;
- (13) the disclosure is to the student;
- (14) the disclosure is to a victim of an alleged perpetrator of any crime of violence (as that term is defined in Section 16 of Title 18 of the United States Code) or a nonforcible sex offense of the final results of any Disciplinary Proceeding conducted by the University against the alleged perpetrator of such crime or offense with respect to such crime or offense. The University may disclose the final results of the Disciplinary Proceeding to the victim regardless of whether the University concluded a violation was committed. Nothing in this section shall be construed to prohibit the University from disclosing to individuals or entities other than the victim the final results of any such Disciplinary Proceeding if the University determines as a result of such Disciplinary Proceeding that: (i) the student is an alleged perpetrator of a crime of violence or nonforcible sex offense; and (ii) with respect to the allegations made against him or her, the student has committed a violation of the University’s rules or policies. For purposes of this section, the final results of any Disciplinary Proceeding: (i) shall include only the name of the student, the violation committed and any sanction imposed by the University on that student; and (ii) may include the name of any other student, such as a victim or witness, only with the written consent of that other student;
- (15) the disclosure relates to appropriate information in the Education Records of any student concerning disciplinary action taken against such student for conduct that posed a significant risk to the safety or well-being of that student, other students or other members of the University community, and the disclosure is made to faculty, administration, or other University officials, or faculty,

administration or officials of other schools or institutions of postsecondary education, who have legitimate educational interests in the behavior of the student;

- (16) the disclosure is to the parent of a student and relates to information regarding any violation by a student of any Federal, state or local law, or of any rule or policy of the University, governing the use or possession of alcohol or a controlled substance, regardless of whether that information is contained in the student's Education Records if: (i) the student is under the age of 21 at the time of the disclosure to the parent; and (ii) the University determines that the student has committed a disciplinary violation with respect to such use or possession; provided, however, that no provision of applicable state law prohibits the University from making such disclosure;
- (17) the disclosure concerns sex offenders and other individuals required to register under applicable law and the information was provided to the University under applicable law and guidelines; or
- (18) when the University is returning records to the apparent creator (e.g., of a transcript or letter) to verify authenticity.

(b) Whenever a student's Education Records or information from such records is disclosed to any organization, agency or individual, and it is required by applicable law, a transmittal letter shall inform the recipient that such records or information are not to be disclosed to any other party without the prior written consent of the student.

(c) Each University office which maintains Education Records shall keep with the records of each student a form which lists, with the exceptions stated below, all individuals, agencies or organizations which have requested or obtained access to such student's Education Records. This form shall also include the legitimate interest the requestor had, if any, in making the request. This requirement does not apply to disclosures to University officials described in Section 3(a)(1) hereof, to the student or his or her parent, to parties to whom disclosure has been specifically approved by the student, to disclosures of Directory Information, or to a party seeking or receiving the records as directed by a Federal grand jury or other law enforcement subpoena and the issuing court or agency has ordered that the information furnished in response thereto not be disclosed or an ex parte court order obtained by the United States Attorney General (or designee not lower than an Assistant Attorney General) concerning investigations or prosecution of certain offenses or an act of domestic or international terrorism. Where it is required by applicable law, personal information shall only be transferred to a third party on the condition that such party will not permit any other party to have access to such information without the written consent of the student.

#### **Section Four. Student's Rights to Access.**

(a) General.

- (1) The types of Education Records maintained by the University include academic records (transcripts, advising records, and letters of evaluation ) and other personal records, such as work-study and financial records, and records of Disciplinary Proceedings. The offices in which such records are maintained include the Provost's Office, the Deans' offices of the various schools/colleges of the University, offices of faculty advisors and department/division heads, the Registrars' Offices, Counseling Center, Placement Offices, the Offices of the Deans of Students and the subordinate sections, Admissions, Financial Aid, Special Programs and the Business Offices.
- (2) With certain exceptions set forth in this Policy or in the Act, the Education Records of a particular student shall be open for inspection by that student.
- (3) The following types of information shall not be released to students:
  - (i) financial records of the parents of the student or any information contained therein;
  - (ii) confidential letters and statements of recommendation, which were placed in the Education Records prior to January 1, 1975, if such letters or statements are not used for purposes other than those for which they were specifically intended; and
  - (iii) if the student has signed a waiver of the student's right of access in accordance with subsection (4) below, confidential recommendations -
    - (A) respecting admission to any educational agency or institution;
    - (B) respecting an application for employment, and
    - (C) respecting the receipt of an honor or honorary recognition.
- (4) A student or person applying for admission may waive his right of access to confidential statements described in clause (iii) of subsection (3) above, except that such waiver shall apply to recommendations only if (i) the student is, upon request, notified



of the names of all persons making confidential recommendations and (ii) such recommendations are used solely for the purpose for which they were specifically intended.

- (5) Subject to the limitations otherwise stated herein, a student may waive any of his or her rights granted pursuant to the Act and the regulations promulgated thereunder. The University will not require such a waiver as a condition of admission, receipt of financial aid or receipt of any other services or benefits. A waiver under this Section may be made with respect to specified classes of Education Records and persons or institutions. A waiver under this Section may be revoked, in writing, with respect to any actions occurring after the revocation.
- (6) If any material or demand in the Education Records of a student includes information on more than one student, the student (or the parent of a Dependent Student) shall have the right to inspect and review only such part of such material or document as relates to such student or to be informed of the specific information contained in such part of such material.

(b) Procedures for Access to Records.

- (1) A request by a student (or the parent of a Dependent Student) to inspect his or her Education Records shall be made to the office which maintains such records. Each office maintaining Education Records shall designate a person to receive and process such requests. Upon receipt of a dated, signed request form and proper identification, the designated person receiving the request shall give the student or parent a written confirmation or receipt of the request. Such person shall also inform the student or parent when the requested records will be made available, as soon as is reasonably possible, but in no event more than forty-five (45) days after receipt of the request.
- (2) After the designated person has removed from the student's file all information which may not be disclosed under this Policy or the Act, the records shall be made available to the student or parent on the specified date, after the student or parent again displays proper identification, for inspection and review under supervision of the designated person. If a student or parent requests a copy of one or more of such records, the requested copies, with limited exceptions, shall be transmitted to the student or parent upon payment of a fee. Unless otherwise specifically stated, the fee for such copies shall be Twenty-Five cents (\$.25) per page. The University may deny the request for a copy of records for legitimate cause, provided that such denial and the circumstances

do not effectively prevent the student from exercising the right to inspect and review the records. In order to have this right, the circumstances surrounding the possible denial of a copy of records must be described. **In no event will the records of another institution which a student attended be released to any person including a student or his/her parent.**

- (3) After reviewing his or her records, a student or parent has a right to challenge the contents of such records as being inaccurate, misleading or otherwise in violation of the privacy or other rights of the student. Unless otherwise established by the school/college in which a student has matriculated, a student or parent may not challenge the correctness of a grade which has been assigned to the performance of the student in a course, but may challenge the accuracy of the recording of the grade.
- (4) Upon deciding that some aspect of the student's record(s) is inaccurate, the student or parent shall so inform the designated person in the office where the records are maintained and shall attempt to resolve the problem through informal discussion with such person and the person in charge of that office.
- (5) If no agreement is reached through informal discussions, the student may submit in writing to the Dean of the School or College in which the student has matriculated, a rebuttal and/or request for a hearing, specifying the record or records alleged to be inaccurate, misleading or otherwise inappropriate. If the Dean's review of the hearing request and file also does not result in an agreement, the Dean shall appoint as hearing officer a University official with no direct interest in the outcome of the hearing. Unless the student or parent withdraws his request or requests a delay, the hearing shall be held within forty-five (45) days after receipt of the student's or parent's request, and the hearing officer shall provide the student or parent notice of the date, time and place of the hearing reasonably in advance of the hearing. At the hearing, the student or parent shall be given an opportunity to present evidence in support of the challenge and the student or parent may, at his/her own expense, be assisted or represented by one or more individuals of his/her own choice, including an attorney. The impartial official conducting the hearing shall render his/her decision in writing within thirty (30) days after the hearing, which decision must include a summary of the evidence and the reasons for the decision. If the decision denies the challenge, the student or parent may have inserted in the student's records a written explanation concerning the allegedly inappropriate contents.

**Section Five. Miscellaneous Policy Items.**

(a) This Policy and a copy of the Act and regulations promulgated thereunder shall be made available at registration headquarters during regular registration periods. In addition, copies of this Policy may be found in the offices of the Deans of Students and the offices of the Deans of the various schools and colleges of the University.

(b) An annual notification of rights under the Act shall be given to students in attendance at the University. This notification shall typically be contained in the student handbooks.

(c) If a student feels that the University has failed to comply in some way with the Act or the regulations promulgated thereunder, and has failed to answer his or her complaint satisfactorily, he or she has the right to file a complaint with the Family Policy Compliance Office, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, DC 20202.

(d) Nothing in this Policy may be construed to prohibit the University from disclosing information concerning registered sex offenders.

(e) This Policy shall be effective as of the commencement of the 2009-2010 academic year. This Policy may be amended, supplemented or revoked by the University at any time.

## **ANNUAL NOTICE TO STUDENTS REGARDING EDUCATION RECORDS**

The Family Educational Rights and Privacy Act (FERPA) affords students certain rights with respect to their education records. These rights include:

(1) The right to inspect and review the student's education records within 45 days of the day the University receives a request for access.

A student should submit to the registrar, dean, head of the academic department or other appropriate official, a written request that identifies the record(s) the student wishes to inspect. The University official 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 University official to whom the request was submitted, that official shall advise the student of the correct official to whom the request should be addressed.

(2) The right to request the amendment of the student's education records that the student believes are inaccurate, misleading or otherwise in violation of the student's privacy rights under FERPA.

A student who wishes to ask the University to amend a record should write to the University official responsible for the record, clearly identify the part of the record the student wants changed, and specify why it should be changed.

If the University decides not to amend the record as requested, the University will notify the student in writing of the decision and the student's 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.

(3) The right to provide written consent before the University discloses personally identifiable information from the student's education records, except to the extent that FERPA authorizes disclosure without consent.

The University discloses education records without a student's written consent under the FERPA exception for disclosure to University officials with legitimate educational interests. A University official is a person employed by the University in an administrative, supervisory, academic or research, or support staff position (including, without limitation, law enforcement unit personnel, health staff, athletic coaches and trainers, and admissions counselors and recruiters); a person or company with whom the University has contracted as its agent to provide a service instead of using University employees or officials (such as an attorney, auditor, contractor, consultant, volunteer 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 University official in performing his or her tasks.

A University official has a legitimate educational interest if the official needs to review an education record in order to fulfill his or her professional responsibilities for the University.

Upon request, the University also discloses education records without consent to officials of another school in which a student seeks or intends to enroll or is already enrolled. Such education records may include updated or corrected information, including, without limitation, disciplinary and health records.

(4) The right to file a complaint with the U.S. Department of Education concerning alleged failures by Widener University 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, S.W., Washington, DC, 20202.

(5) The right to withhold public disclosure of any or all items of “directory information” by written notification to the Registrar’s Office of the University or the School of Law, as applicable, within two (2) weeks after the commencement of the fall or spring semesters of any given academic year. Under current University policy, the term “directory information” includes, without limitation, a student’s name, home and campus address, telephone listing(s), electronic mail address, photograph, major field of study, grade level, enrollment status (e.g., undergraduate or graduate, full-time or part-time); dates of attendance, participation in officially recognized activities and sports, weight and height of members of athletic teams, dates of attendance, degrees, honors, and awards received, and the most recent educational agency or institution attended.