

## BERKELEY COLLEGE STUDENT RECORDS POLICY

### Purpose

The purposes of this policy are to (1) help protect the privacy and integrity of student Education Records; and (2) to provide for the review and, when appropriate, correction of those records by students. This Policy sets forth exceptions to the general rule of privacy; student rights under FERPA; and procedures to be followed by authorized Berkeley College associates, student workers and contractors when dealing with student Education Records.

### Scope

This policy applies to all (current and former) Berkeley College students; associates, student workers and contractors who are granted access to student Education Records or information derived from them.

### Definitions

*The Family Educational Rights and Privacy Act (FERPA)* is a Federal law that (1) protects the privacy of student Education Records and certain information derived from them and (2) confers certain rights upon students with respect to such records.

*Student* refers to any person who attends or has attended Berkeley College.

*Education Records* refer to any records (in handwriting, print, tape, film, computerized form or other medium) maintained by Berkeley College or an agent of the College which are directly related to a student, *except*:

1. A personal record kept by a staff member if it is kept in the sole possession of the maker of the record, is used only as a personal memory aid, and is not accessible or revealed to other persons except a temporary substitute for the maker of the record;
2. Records created and maintained by Berkeley College's Public Safety Department for law enforcement purposes;
3. An employment record, made in the normal course of business, of an individual whose employment is not contingent on the fact that he or she is a student, provided the record is used only in relation to the individual's employment;
4. Records made or maintained by a physician, psychiatrist, psychologist, counselor or other recognized professional or paraprofessional acting in a professional or paraprofessional capacity if the records are used only for diagnosis or treatment of a student who is 18 years of age or older and made available only to those persons providing the diagnosis or treatment; and
5. Records that contain information about a student after he or she is no longer in attendance at the College and do not relate to the person as a student.

## I. DISCLOSURE OF EDUCATION RECORDS

*With Consent:* Before disclosing Education Records – or information derived from Education Records – Berkeley College must obtain a signed and dated **eform FERPA waiver** from a student specifying: 1) the records that may be disclosed; 2) the purpose for which they may be disclosed; and 3) the persons or classes to whom they may be disclosed. Authorization to disclose information from Education Records does not obligate the College to provide copies of records. The College may determine whether to do so in its sole discretion. All waivers will be routed to the Registrar’s Office where they will be maintained as part of a student’s Education Records. The Registrar’s Office will maintain a record that can be easily accessed by appropriate members of the College community to insure that a student’s waiver request is honored. FERPA Waiver eforms may be obtained on the Berkeley College website under the “Student and Career Services” tab, Forms and Publications, Finance section here: <https://transforms.berkeleycollege.edu/iFiller/iFiller.jsp?fref=6ea5fc31-b08f-4290-b67b-a9cba033d8a6>

*Without Consent:* Berkeley College will disclose information from a student’s Education Records only with the written consent of the student, *except under the following circumstances:*

1. To school officials who have a legitimate educational interest in the records.

As used above, a *school official* refers to:

A person employed by the College in an administrative, supervisory, academic, research or support staff position;

A person elected to the Board Trustees;

A person or company with whom the College has contracted to provide a service, such as an attorney, auditor, verification service, consultant or collection agent; and/or

A student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.

As used above, a school official has a *legitimate educational interest* if the official:

Has a reasonable need to be able to access an Education Record in order to fulfill his or her professional responsibilities to the College.

2. To officials of another educational institution, upon request, in which a student seeks or intends to enroll, if the disclosure is for purposes related to the student’s enrollment or transfer. (Berkeley will make a reasonable attempt to notify the student of such requests);
3. To the Secretary of the U.S. Department of Education, the U.S. Comptroller General, the U.S. Attorney General and state and local educational authorities in connection with certain state or federally supported education programs;

4. In connection with a student's request for or receipt of financial aid as necessary to determine the eligibility, amount, or conditions of the financial aid, or to enforce the terms and conditions of the aid;
5. To organizations conducting certain studies for or on behalf of the College to develop, validate, or administer predictive tests, administer student aid programs, or improve instruction;
6. To accrediting organizations to carry out their functions;
7. To comply with a judicial order or a lawfully issued subpoena. (Berkeley will make a reasonable attempt to notify the student prior to compliance);
8. To a court, administrative agency or tribunal in the context of a proceeding in which the student and institution are adversaries;
9. To appropriate parties in a health or safety emergency;
10. Directory information so designated by the College, as set forth below (but only after ascertaining that the student has not "opted out" of the disclosure of Directory Information);
11. The "final results" of a disciplinary proceeding against a student whom the institution has determined violated an institutional rule or policy in connection with alleged acts that would, if proven, also constitute a "crime of violence or non-forcible sex offense." For purposes of this exception, the term "final results" is limited to the name of the student, the basic nature of the violation, and a description and duration of any sanction the institution has imposed against the student. The disclosure will be made to the "victim of an alleged perpetrator of a crime of violence or non-forcible sex offense;"
12. To parents or legal guardians of a student regarding the student's violation of any Federal, State or local law, or any rule of policy of the school, governing the use or possession of alcohol or a controlled substance, if the student is under the age of 21 at the time of the disclosure and it relates to a determination by the College that the student has violated its drug or alcohol rules;
13. To a parent or legal guardian of a student who is considered a "dependent" for federal tax purposes;
14. To the student and/or other person(s) or entities designated by the student in writing;
15. The disclosure concerns sex offenders and other individuals required to register under Section 170101 of the Violent Crime Control and Law Enforcement Act of 1994 and the information was provided to the College under this same federal law and/or applicable federal guidelines; and
16. Otherwise, as permitted or required by law.

## Deceased Students

Unless otherwise so directed by a student, FERPA rights terminate upon the death of a student. Berkeley College's Policy does not allow for the release of a deceased student's Education Records. Written requests for exceptions must be submitted to the College Registrar.

## II. DIRECTORY INFORMATION

*Directory Information* is designated information that is generally not considered harmful or an invasion of privacy if released. Berkeley designates the following items as **Directory Information**: **student name, address, telephone number, email address, student number, date and place of birth, major field(s) of study, participation in officially recognized activities and sports, dates of attendance, degrees, honors and awards received, most recent previous school attended, and likeness (photograph, video, or other form)**. The College may disclose Directory Information without prior written consent, unless notified in writing to the contrary via the *FERPA DIRECTORY INFORMATION OPT-OUT EFORM*, which may be obtained on the Berkeley College website under the "Student and Career Services" tab, Forms and Publications, Finance section, here: <https://transforms.berkeleycollege.edu/iFiller/iFiller.jsp?fref=8512d944-7ee1-4ebb-9cbf-268f71a0a5ba>.

Completed Opt-Out eforms will be routed to the Registrar's Office. Opt-Out forms will be maintained as part of a student's Education Records. Upon receipt of an Opt-Out form, the Registrar's Office will create and maintain a record that can be easily accessed by appropriate members of the College community to insure that a student's opt-out request is honored. Students may complete and submit Opt-Out eforms to the Registrar at any time, but they will only be effective prospectively.

## III. PROCEDURE TO INSPECT EDUCATION RECORDS

Students (or other individuals authorized by law to review a student's Education Records) may inspect and review their Education Records upon written request to the Registrar's Office. The request should identify as precisely as possible the record or records the student wishes to inspect.

The appropriate College official will make the needed arrangements for access and notify the student of the time and place where the records may be inspected. Access should be given within 45 days from the receipt of the written request. FERPA does *not* require an institution to provide copies of records to the student, unless circumstances effectively prevent the student from exercising the right to inspect and it is not possible to make other arrangements for inspection. In any situation where disclosure is authorized, the College may determine, in its sole discretion, whether to provide or charge for copies.

When a record contains information about more than one student, the requesting student may inspect and review only the records (or portions of the records) that relate to him or her. The records will be redacted before inspection, if necessary.

#### IV. TYPES OF EDUCATION RECORDS

The following is a list of the types of Education Records that the College maintains and their respective locations.

Record Type	Location of Records
Admissions	Registrar's Office
Academic	Registrar's Office
Disciplinary	Student Development and Campus Life Office
Financial Aid	Financial Aid Office
Student Account Information	Student Accounts Office

#### V. RIGHT OF COLLEGE TO REFUSE ACCESS

Berkeley College reserves the right to refuse to permit a student to inspect the following records:

1. The tax returns or other financial information of the student's parents;
2. Confidential letters and statements of recommendation related to the student's admission, application for employment, or receipt of an honor for which the student has waived his or her right of access;
3. Records connected with an application to attend Berkeley College if that application was denied; and
4. Those records that are excluded from the FERPA definition of Education Records.

#### VI. AMENDMENT OF EDUCATION RECORDS

Students have the right to request the correction of any Education Records that they believe are inaccurate, misleading or in violation of their privacy rights. The following are the procedures for the correction of records:

1. A student must ask the Registrar's Office, in writing, to amend a record that is asserted to be inaccurate or misleading. In so doing, the student should identify the part of the record he or she wants changed and specify why he or she believes it is inaccurate, misleading or in violation of his or her privacy or other rights.
2. The College may grant or deny the request. If the request is denied, the College will notify the student of the decision within a reasonable time and advise him or her of the right to challenge the information believed to be inaccurate, misleading or in violation of the student's rights.
3. Upon request, the College will arrange for an investigation and adjudication (together referred to as the "**proceeding**"), and notify the student in advance of the applicable dates and the process for the proceeding.

4. The proceeding will be conducted by a designated official of the institution. The student shall be afforded a full and fair opportunity to present evidence relevant to the issues raised in the original request to amend the student's Education Records. The student may be assisted by one or more individuals, including an attorney.
5. The College will prepare a written decision, rendered within a reasonable time after the proceeding, based solely on the evidence presented during the proceeding. The decision will include a summary of the evidence presented and the reasons for the decision.
6. If the College decides that the challenged information is not inaccurate, misleading or in violation of the student's right of privacy, it will notify the student that he or she has a right to place in the record a statement commenting on the challenged information and/or a statement setting forth reasons for disagreeing with the decision.
7. The statement will be maintained as part of the student's Education Records as long as the contested portion is maintained. If the College discloses the contested portion of the record, it shall also disclose the statement.
8. If the College decides that the information is inaccurate, misleading, or in violation of the student's right of privacy, it will amend the record and notify the student, in writing, that the record has been amended.

## **VII. HANDLING OF EDUCATION RECORDS**

Access to Education Records may be allowed only to individuals with a legitimate need to use the records in connection with College business, and the records may only be used for such purposes. Contractors who are allowed access to Education Records to perform services for the College must first be required to execute an appropriate confidentiality agreement approved by the Office of the General Counsel wherein they undertake to abide by the requirements of this policy and to notify the College immediately of any suspected unauthorized access or other violation of this policy. Associates, student workers and contractors who are provided access to Education Records must maintain the security of such records at all times. Specifically, they must:

1. Maintain Education Records in a secure environment and treat them as confidential;
2. Avoid leaving documents or reports containing protected student information on reception desks/counters or in other areas open to view and/or access by students and visitors;
3. Remove and/or secure records before leaving an unsecured work area;
4. Position computer monitors so that records cannot be viewed by other students or unauthorized persons;
5. Follow all applicable laws, regulations and College policies; and
6. Maintain a record of each instance when access to the student's Education Records has been requested or obtained other than by authorized College personnel. The record will

identify the records disclosed; indicate the name of the party making the request, the name of the recipient(s), and any additional party to whom re-disclosure has been authorized; and the legitimate interest the party had in requesting or obtaining the information. The access record must be maintained with the student's Education Records for as long as those records are maintained.

#### **VIII. TELEPHONE AND IN-PERSON INQUIRIES**

Associates, student workers or contractors shall not disclose any information derived from Education Records to individuals or entities who are not associated with the College through the telephone, unsecured email, voice mail or other unsecured electronic means due to an inability to identify the requesting party with sufficient certainty or ensure secure delivery of the information. Students who request specific award or account information over the phone, for example, will be referred to the Self-Service module of Blackboard. Students requesting information in person must show acceptable picture identification, which must be examined for authenticity before the release of an Education Record or any information derived from an Education Record.

#### **IX. ASSISTANCE TO PUBLIC AUTHORITIES**

The College is not permitted to provide information, other than "directory information" (after ascertaining that the student has not "opted-out"), to law enforcement or other public authorities unless the student has authorized it in writing; an emergency exists; or a valid subpoena has been served and disclosure has been cleared with the Office of the General Counsel.

#### **X. SERVICE OF A SUBPOENA OR OTHER LEGAL PROCESS**

Any attorney within the Office of the General Counsel (Woodland Park) and Campus Operating Officers are authorized to receive subpoenas or other legal process on behalf of the College. If a process server or other individual attempts to serve any legal document (including but not limited to a subpoena or other official request for records) on an associate (other than those listed above), student worker or contractor, that person is to indicate clearly that [s]he is not authorized to accept service of process on behalf of the College and immediately notify the Office of the General Counsel. A Campus Operating Officer who accepts any service of process on behalf of the College shall also immediately notify the Office of the General Counsel.

#### **XI. SECURE STORAGE AND DISPOSAL OF STUDENT EDUCATION RECORDS**

Education Records must be managed, stored, transmitted and disposed of in accordance with data security and records retention requirements. Reports or screen shots reflecting personally identifiable student records or information derived from them shall be stored and transmitted by appropriately secure means. For example, records reflecting social security numbers or similarly sensitive information may only be transmitted by appropriately secure means. Any paper document that contains personally identifiable student information, even if it is not considered to be an Education Record, may be disposed of only by shredding using a cross-cut shredder. Disposal of Education Records must be done in compliance with authorized Berkeley College records retention schedules and must be documented appropriately.

## **XII. ANNUAL NOTIFICATION**

Students will be advised of this Policy, and/or the *Notification of Student Rights under FERPA*, at least annually via electronic mail and this Policy and the Students' Notification of Rights is available for review online at [http://berkeleycollege.edu/berkeley\\_bc/general-counsel-policies-and-procedures.htm](http://berkeleycollege.edu/berkeley_bc/general-counsel-policies-and-procedures.htm) under the "Privacy" section. In addition, a paper copy of this Policy will be available in the Registrar's Office.

## **XIII. COMPLAINTS**

Students have the right to file a complaint with the U.S. Department of Education regarding alleged non-compliance with FERPA, at the following address:

Family Policy Compliance Office  
U.S. Department of Education  
400 Maryland Avenue, SW  
Washington, DC 20202-5901