

# STUDENT INFORMATION RELATED TO THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT (FERPA) AND THE SOLOMON AMENDMENT

Bethany Lutheran College conforms to the requirements of the Family Educational Rights and Privacy Act of 1974 (FERPA), as amended.

## PURPOSE OF FERPA

FERPA sets out requirements for the protection of student privacy. It deals specifically with the education records of students, affording them certain rights with respect to those records. FERPA does not apply to records of applicants for admission who are denied acceptance or, if accepted, do not attend an institution.

## DEFINITIONS

**Directory Information** refers to information contained in an education record of a student that would not generally be considered harmful or an invasion of privacy if disclosed. (See Directory Information section below for detailed list of items.)

**Education Records** are academic records that are:

- directly related to a student; and
- maintained by an educational institution or by a party acting for the institution.

Education Records do not include:

- records that are kept in the sole possession of the maker, are used only as a personal memory aid and are not accessible or revealed to any other person except a temporary substitute for the maker of the record
- records maintained by the Security department of Bethany Lutheran College created by them as an incident relates to their area of responsibility
- records relating to an individual who is employed by the College, which were made and maintained in the normal course of business related exclusively to individuals in their capacity as employees, and are not available for use for any other purpose
- records relating to a student which are created 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
- used only in connection with treatment of the student
- disclosed only to individuals providing the treatment

**Eligible Student** refers to a student who has reached 18 years of age or is attending an institution of postsecondary education.

**Legitimate Educational Interest** is the official need to review an education record by a school official in order to fulfill his/her professional responsibility.

**Personally Identifiable Information** may include, but is not limited to:

- student's name
- name of student's parent(s) or other family member
- address of student or student's family
- personal identifier, such as student's social security number or student number
- list of personal characteristics that would make the student's identity easily traceable
- other information that would make the student's identity easily traceable

**Record** refers to any information recorded in any way, including but not limited to handwriting, print, computer media, video or audiotape, film, microfilm, and microfiche.

**School Official** refers to a person employed by the College in an administrative, supervisory, academic, research, or support staff position, including Security personnel and health services staff; a person or company the College has contracted (such as an attorney or auditor); 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 a school official in performing his/her tasks.

**Student**, unless otherwise specified, refers to any individual who is or has been in attendance at Bethany Lutheran College.

### **STUDENTS' RIGHTS UNDER FERPA**

Students have the right to:

- 1) inspect and review their education records
- 2) seek amendment of their education records that they believe to be inaccurate, misleading, or otherwise in violation of their privacy rights
- 3) consent to disclosures of personally identifiable information contained in their education records, except to the extent that FERPA authorizes disclosure without consent
- 4) file a complaint with the Department of Education concerning alleged failures by the College to comply with the requirements of FERPA

### **The right of inspection and review includes:**

- 1) the right to inspect and review their records within a reasonable amount of time, but not more than 45 days after their request has been received (per the policy of Bethany Lutheran College, records can only be reviewed in the presence of a College official)
- 2) the right to an explanation and interpretation of the records
- 3) the right to make other arrangements to inspect and review their records if circumstances effectively prevent them from inspecting and reviewing their records within the normal procedures (per the policy of Bethany Lutheran College, records can only be reviewed in the presence of a College official)
- 4) the right to not have any education records destroyed if the student has an outstanding request

### **Limitations on Right of Access**

Based upon FERPA, Bethany Lutheran College reserves the right to refuse to permit a student to inspect and review the following records:

- 1) Financial records, including any records that contain financial information on his/her parents
- 2) Letters and statements of recommendations for which the student has waived his/her right of access, or which were obtained before January 1, 1975
- 3) Records of applicants for admission who were not admitted or, if admitted did not attend Bethany Lutheran College.
- 4) Education records containing information about more than one student
- 5) Records which are excluded from the FERPA definition of education records

### **Procedure to Inspect and Review Education Records**

Students may inspect and review their education records upon request to the appropriate custodian of records. Students should submit a written request that identifies as precisely as possible the record(s) he/she wishes to inspect. The record custodian will make arrangements for access as promptly as possible and notify the student of the time and place where the records may be inspected. (Per the policy of Bethany Lutheran College, records can only be reviewed in the presence of a College official.)

### **Procedure to Request Amendment of Records**

- 1) A student must submit a written request to the appropriate record custodian to amend a record. The student must specify which part of the record is inaccurate, misleading, or in violation of the student's right of privacy.
- 2) Bethany Lutheran College will respond to the student within a reasonable amount of time.
- 3) The student will be notified of the decision to grant or not to grant the request. If the College does not grant the requested amendment, the student will be advised of his/her right to a hearing to challenge the decision.
- 4) Upon request, the College will arrange for an opportunity for a hearing and notify the student of the date, time, and place reasonably in advance of the hearing.
- 5) The appropriate dean, depending upon the record(s) involved, will conduct the hearing.
- 6) The student shall be afforded ample opportunity to present evidence relevant to issues raised in the original request to amend their education records. One or more individuals may assist the student, including an attorney.
- 7) Bethany Lutheran College will prepare a written decision based solely on the evidence presented at the hearing and will include a summary of the evidence and the reasons for the decision.
- 8) As a result of the hearing, if the College decides that the information in the student record is inaccurate, misleading, or in violation of the privacy rights of the student, it will amend the record(s) and inform the student of the amendment in writing.

- 9) If the College decides that the information in the education record is not inaccurate, misleading, or otherwise in violation of the privacy rights of the student, it will notify the student that he/she has the right to place a statement in the record commenting on the contested information or stating why he/she disagrees with the decision of the College.
- 10) The statement will be maintained as part of the student's education records as long as the record is maintained. If the College discloses the contested portion of the record, it must also disclose the student's statement.

### **DISCLOSURE OF EDUCATION RECORDS**

Bethany Lutheran College will disclose information from a student's education record only with the written consent of the student except when the disclosure meets one of the following conditions provided in FERPA:

- 1) To school officials who have legitimate educational interest in the records. This also includes students serving on an official committee such as a disciplinary or grievance committee, or assisting a school official in performing his/her tasks.

It is advisable to:

- a) familiarize the student worker with FERPA guidelines and policies
- b) explain the importance of preserving the confidentiality of education records they encounter in their tasks, and
- c) require student workers to sign an agreement prior to their employment to emphasize the importance of education record confidentiality and minimize the chance that FERPA will be violated by the unauthorized release of nondirectory information

A school official has legitimate educational interest if the official is:

- performing a task that is specified in his/her position description or contract agreement
  - performing a task related to the student's education
  - performing a task related to the discipline of the student
  - providing a service or benefit relating to the student or student's family such as healthcare, counseling, job placement, or financial aid
- 2) To officials of another school, school system, or institution of postsecondary education where the student seeks or intends to enroll.
  - 3) To authorized representatives of the Comptroller General of the United States, the Attorney General of the United States, the Secretary of the U.S. Department of Education or designated representative, or State and local educational authorities.
  - 4) In connection with financial aid for which the student has applied or received in order to determine eligibility, amount, conditions, or terms and conditions of the aid.
  - 5) To State and local officials or authorities if specifically required by a State law adopted before November 19, 1974.
  - 6) To organizations conducting studies for, or on behalf of, the College.
  - 7) To accrediting organizations to carry out their accrediting functions.
  - 8) To parents of an eligible student who is claimed as a dependent for income tax purposes.
  - 9) To comply with a judicial order or a lawfully issued subpoena.
  - 10) In connection with a health or safety emergency.
  - 11) To individuals requesting directory information as designated by the College.
  - 12) To the parent of a student who is not an eligible student or to the student. ("Eligible Student" is defined as a student who has reached 18 years of age or is attending an institution of postsecondary education.)
  - 13) The results of a disciplinary proceeding conducted by the College to the victim of an alleged perpetrator of a crime of violence or a non-forcible sex offense.
  - 14) In connection with a disciplinary proceeding at the College where the final results will only be disclosed if the student is an alleged perpetrator of a crime of violence or non-forcible sex offense and if the student has committed a violation of the College's regulations or policies.
  - 15) To a parent of a student at Bethany Lutheran College regarding the student's violation of any Federal, State, or local law, or of any regulation or policy of the College, governing the use or possession of alcohol or a controlled substance if the College determines the student has committed a violation with respect to that use/possession and the student is under age 21 at the time of disclosure to the parent.

Bethany Lutheran College is not forbidden from disclosing, nor required to disclose, personally identifiable information from the education records of students to the parties listed in items 1 through 15 above (with the exception of item 12).

## **RECORDKEEPING OF REQUESTS AND DISCLOSURES**

Bethany Lutheran College is required to maintain a record of each request for access to and disclosure of personal identifiable information from student education records. This record is not required if the request comes from the student, a school official, a party with written consent from the student, a party seeking directory information, or a party seeking or receiving the records as directed by a Federal Grand Jury or other law enforcement subpoena.

## **REDISCLASURE OF EDUCATION RECORDS**

Bethany Lutheran College may disclose personally identifiable information from an education record only on the condition that the party to whom the information is disclosed will not disclose the information to any other party without the prior written consent of the student. The receiving party will only use the information for the purposes for which the disclosure was made.

## **PARENTAL ACCESS TO CHILDREN'S EDUCATION RECORDS**

At the postsecondary level, parents have no inherent rights to inspect a student's education records. Records may be released to parents only when at least one of the following conditions have been met:

- 1) through the written consent of the student
- 2) in compliance with a subpoena
- 3) in connection with a health or safety issue
- 4) submission of evidence that the parents declared the student as a dependent on their most recent Federal Income Tax form (IRS Code of 1986, Section 152). In cases of divorce, separation, or custody when only one parent declares the student as dependent, the College may grant access to information from the student's education records to the other parent unless there is a court order, State statute, or legally binding document stating, otherwise. Bethany Lutheran College is not, however, required to provide such information to either parent.

## **POSTING OF GRADES BY FACULTY**

The public posting of grades either by the student's name, Bethany Lutheran College identification number, or social security number without the student's written consent is a violation of FERPA. Instructors and others who post grades should use a system that ensures FERPA requirements are met. This can be accomplished either by obtaining the student's uncoerced written permission to do so or by using code words or randomly assigned numbers that only the instructor and individual student know. The order of posting should not be alphabetical.

## **REFERENCES FOR STUDENTS BY FACULTY**

FERPA's prohibition on disclosure of personally identifiable information from an education record of a student applies to any kind of nondirectory information conveyed in writing, in person, or over the telephone to third parties. Although such information is usually conveyed by faculty members at the informal request of the student and is usually positive, the better practice would be to request a written consent form, meeting the FERPA requirements, before providing the information.

## **STUDENTS' RIGHTS AFTER CEASING ATTENDANCE OR GRADUATING**

Students who have ceased attendance or have graduated from an institution of higher education have basically the same FERPA rights as students currently attending Bethany Lutheran College, including the right to:

- 1) inspect their education records (Bethany Lutheran College policy requires that records can only be reviewed in the presence of a College official)
- 2) have a hearing to seek to amend an education record
- 3) have their education record privacy protected by Bethany Lutheran College; once a student leaves Bethany they do not have the right to request privacy

## **DISPOSAL OF STUDENT EDUCATION RECORDS**

Information about individuals should be retained only so long as it is valid and useful. Those responsible for academic information have an obligation to destroy information when conditions under which it was collected no longer prevail. Any document containing personally identifiable information must be disposed of as appropriate through some means of confidential disposal.

## **DIRECTORY INFORMATION**

In keeping with the requirements of FERPA, Bethany Lutheran College hereby designates the following items as Directory Information. The College may disclose any of these items for any purpose at its discretion without prior written consent, unless notified in writing to the contrary by the student. Directory

Information includes the student's: *Name, Local address/Phone, Permanent Address/Phone, Email Address, Date and Place of Birth, Hometown, Degrees/Awards/ Honors Received and Dates, Dates of Attendance (Current and Past), Full or Part time Enrollment Status, Participation in Officially Recognized Activities, Participation in Officially Recognized Sports, Weight/Height of Members of Athletic Teams, Most Recently Attended Educational Institute, Major Field of Study, Academic Level, Residency Status, Photograph*

Currently enrolled students may withhold disclosure of information under the provisions of FERPA. To withhold disclosure, written notification must be received in the Registrar's Office prior to the end of the second week of the semester or the end of the first week of summer session. Students may obtain a *Student Request to Restrict Information* form from the Registrar's Office. Submitting this form will make the directory information confidential until the student submits a written request to the Registrar's Office to remove the restriction. As with all confidential student records, Bethany Lutheran College will release information to designated parties only with the express written consent of the student or as otherwise required by law. Failure of the student to specifically request the withholding of directory information indicates approval of disclosure. Each student should give careful consideration to the consequences of any decision to restrict directory information. Should the student decide to restrict directory information, all future requests for directory information from family, friends, prospective employers, credit agencies, and others to whom the student may want this information known however legitimate, will be refused. Bethany Lutheran College cannot assume the responsibility to contact the student for subsequent permission to release directory information. Regardless of the effect upon the student, the College assumes no liability for honoring an instruction to restrict/withhold directory information.

### **SOLOMON AMENDMENT**

Bethany Lutheran College must comply with the Solomon Amendment and therefore supplies the following currently enrolled student data upon request to the Department of Defense, military services, and other related federal agencies for the purpose of recruitment and manpower fulfillment: *Student's name, address, telephone listing, age (or year of birth), level of education (e.g., freshman, sophomore, or degree awarded for a recent graduate), most recent educational institution attended, and current major(s).*

For further information or specific questions, please contact the Registrar.

*Bethany Lutheran College reserves the right to modify information contained in this policy to interpret provisions of this policy, and to vary from any provision of this policy in any instance where Bethany Lutheran College determines that such variance remains in compliance with FERPA requirements.*